

ONTARIO  
SUPERIOR COURT OF JUSTICE

B E T W E E N:

DAVE FREEDOM

Applicant

and

OTTAWA POLICE SERVICE

Respondent

APPLICATION UNDER *rule 14.01 of the Rules of Civil Procedures Ontario*. The application is made under Rule 38 which applies to applications to the Superior Court of Justice for judicial review under section 6(2) of the Judicial Review Act as the matter is urgent. Under section 2 (4) of Judicial Review act the court has the jurisdiction to set aside this decision made in the exercise of a statutory power of decision is unauthorized or otherwise invalid,

[SEAL]

**NOTICE OF APPLICATION**

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant. The claim made by the Applicant appears on the following page.

THIS APPLICATION will come on for a hearing (*choose one of the following*)

- In person
- By telephone conference
- By video conference

at the following location

*Superior Court of Justice, 161 Elgin St 2nd Floor, Ottawa, ON K2P 2K1*

on .....(day), ..... (date), at..... (time) (or on a day to be set by the registrar).

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the Defendant’s lawyer or, where the Defendant does not have a lawyer, serve it on the Defendant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Defendant’s lawyer or, where the Defendant does not have a lawyer, serve it on the Defendant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date .....

Issued by .....

Local registrar

Address of court office:

Ottawa Courthouse 161 Elgin St 2nd Floor,  
Ottawa, ON K2P 2K1

.....

TO OTTAWA POLICE SERVICE 474 Elgin St, Ottawa, ON K2P 2E6

APPLICATION

1. The Applicant requests review of the vehicle exclusion zone in the downtown Ottawa area made by the Defendant Ottawa Police Service on April 25, 2022 as it was made without lawful authority.
2. **The grounds for the application are:**
  1. The Defendant has issued a permanent Vehicle Exclusion Zone in downtown Ottawa on April 25, 2022. This order prohibits anyone entering the downtown core to protest by vehicle.

2. The Defendant has no authority to close the roads under the Vehicle Exclusion Zone order under the Highway Traffic Act, S134.1 as they have not indicated any highway safety issues.
3. The Defendant has no authority to prohibit vehicles from peaceful protest under the Criminal Code of Canada, Part II, S63(1) as they provided no evidence of violence or any other harmful behaviour or intentions of violence or harmful behaviour.
4. The Defendant has no authority to enforce a Vehicle Exclusion Zone in this case as there is no breach of law that has occurred. Common law defines the criteria the police need to have in order to violate civil liberties to keep the peace, according to Fleming vs Ontario: “As these authorities make clear, an act can be considered a breach of the peace only if it involves some level of violence and a risk of harm. It is only in the face of such a serious danger that the state’s ability to lawfully interfere with individual liberty comes into play. Behaviour that is merely disruptive, annoying or unruly is not a breach of the peace.”
5. The Defendant permanent prohibition of the use of vehicles in a protest in the downtown core is a violation of the *Canadian Bill of Rights* s. 1(d) freedom of speech and s. 1(e) freedom of assembly and association.
6. The Defendant tried to enter the downtown core to protest in his vehicle on April 29, 2022, and has plans to attend future protests in the downtown core by vehicle.
7. The Defendant is merely a Canadian citizen wishing to peacefully assemble and express his views with the use of his vehicle.
8. The Defendants violated the rights of the Applicant under ss. 1(d) freedom of speech and s. 1(e) freedom of assembly and association of the *Canadian Bill of Rights*, movements of the Applicant and fellow protestors to arbitrary by placing barriers on the downtown streets prohibiting the Applicants’ ability to attend and exercise his right to free speech, assembly and association on April 29, 2022 when he attempted to protest in his vehicle by passing out flyer protesting the vaccination requirements to travel.

9. The Defendant provided no information to the Applicant nor evidence that the Applicant or others did behave unlawfully or violate the rights of others to cause the protesting by vehicle to be prohibited by police.
  10. The actions of the Defendants and their agents are not supported by any statute, legislation, rule, by-law, or otherwise and are contrary to the Canadian Bill of Rights and Common Law.
  11. Likewise, the Defendants have failed to seek appropriate injunctions, likely because they have no basis to of harm or intended harm to prohibit peaceful protest.
  12. Rather, the Defendants have acted arbitrarily in violating the rights of the Defendant and fellow protestors, without basis in law or in fact.
  13. The Defendant respectfully requests that the decision to create a vehicle Exclusion Zone to stop protesting by vehicle in the downtown core of Ottawa be set aside.
  14. Such further and other grounds as the Defendant may recommend and this Honourable Court might permit.
  15. The Defendant intends to file a statement of claim against OPS because of the unauthorized violation of the *Canadian Bill of Rights*.
3. The following documentary evidence will be used at the hearing of the application:
1. Affidavit, Dave Freedom, April 29, 2022
  2. Affidavit, Rebecca Shepard, April 29, 2022
  3. Affidavit, Amanda Ridding, April 29, 2022
  4. Affidavit, Isabelle Beaudoin, April 29, 2022
  5. Affidavit, Dave Freedom, May 2, 2022
  6. Affidavit, Rebecca Sheppard, May 2, 2022

May \_\_\_\_, 2022

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APPLICANT

DAVE FREEDOM

2505-2269 Lakeshore Blvd W

Toronto, ON M8V 3X6

Dave.freedom.toronto@gmail.com

RESPONDANT

OTTAWA POLICE SERVICE

474 Elgin St, Ottawa, ON K2P 2E6

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Superior Court of Justice

PROCEEDING COMMENCED AT OTTAWA COURTHOUSE  
161 Elgin St 2nd Floor, Ottawa, ON K2P 2K1

NOTICE OF APPLICATION

DAVE FREEDOM, 2505-2269 Lakeshore Blvd W  
Toronto, ON M8V 3X6, ON K7M 4W9

OTTAWA POLICE SERVICE 474 Elgin St,  
Ottawa, ON K2P 2E6