

Form / Formule 1  
APPLICATION  
DEMANDE

ONTARIO COURT OF JUSTICE  
COUR DE JUSTICE DE L'ONTARIO  
**East**  
Region / Région

(Rule 2.1, Criminal Rules of the Ontario Court of Justice)  
(Règle 2.1, Règles de procédure en matière criminelle de la Cour de justice de l'Ontario)

0411998231140906500  
Court File No. (if known)  
N° du dossier de la cour (s'il est connu)

BETWEEN: / ENTRE

HIS MAJESTY THE KING / SA MAJESTÉ LE ROI  
- and / et -

**Deirdre Moore**  
(defendant(s) / défendeur(s))

1. APPLICATION HEARING DATE AND LOCATION  
DATE ET LIEU DE L'AUDIENCE SUR LA DEMANDE

Application hearing date: **July 23, 2024**  
Date de l'audience sur la demande  
Time  
Heure  
Courtroom number:  
Numéro de la salle d'audience  
Court address: **161 Elgin St., 2nd Fl.**  
Adresse de la Cour **Ottawa, Ontario K2P 2K1**

2. LIST CHARGES  
LISTE DES ACCUSATIONS

Charge Information / Renseignements sur les accusations			
Description of Charge Description de l'accusation	Sect. No. Article n°	Next Court Date Prochaine date d'audience	Type of Appearance (e.g. trial date, set date, pre-trial meeting, etc.) Type de comparution (p. ex., date de procès, établissement d'une date, conférence préparatoire au procès, etc.)
Failure to comply with probation order	733.1(1)	July 23, 2024	Pre-trial meeting
Disobey lawful order of court	127(1)	July 23, 2024	Pre-trial meeting
Uttering threats/property damage	264.1(1)(b)	July 23, 2024	Pre-trial meeting

3. NAME OF APPLICANT  
NOM DE L'AUTEUR DE LA DEMANDE

**Attorney General on behalf of Matthew Pegg (Non-Party)**

4. CHECK ONE OF THE TWO BOXES BELOW:  
COCHEZ LA CASE QUI CONVIENT CI-DESSOUS

I am appearing in person. My address, fax or email for service is as follows:  
Je comparais en personne. Mon adresse, mon numéro de télécopieur ou mon adresse électronique aux fins de signification sont les suivants :

I have a legal representative who will be appearing. The address, fax or email for service of my legal representative is as follows:  
J'ai un représentant juridique qui sera présent. L'adresse, le numéro de télécopieur ou l'adresse électronique de mon représentant juridique aux fins de signification sont les suivants :

**Clare Gover: clare.gover@justice.gc.ca**

APPLICATION  
DEMANDE(Rule 2.1, *Criminal Rules of the Ontario Court of Justice*)  
(Règle 2.1, Règles de procédure en matière criminelle de la Cour de justice de l'Ontario)

PAGE 2

5. CONCISE STATEMENT OF THE SUBJECT OF APPLICATION  
BRÈVE DÉCLARATION DE L'OBJET DE LA DEMANDE

(Briefly state why you are bringing the Application. For example, "This is an application for an order adjourning the trial"; "This is an application for an order requiring the Crown to disclose specified documents"; or "This is an application for an order staying the charge for delay.")

(Expliquez brièvement pourquoi vous déposez la demande. Par exemple : « Il s'agit d'une demande d'ordonnance d'ajournement du procès. », « Il s'agit d'une demande d'ordonnance exigeant de la Couronne qu'elle divulgue les documents précisés. », ou « Il s'agit d'une demande d'ordonnance d'annulation de l'accusation pour cause de retard. »)

**This is an application for an order excusing the Applicant from testifying pursuant to section 700(2) of the *Criminal Code*. In the alternative, an application for an order permitting the Applicant to testify by video pursuant to section 714.1.**

The Attorney General also seeks relief from the requirement in Rule 2.6 from having to bring notice of this application at least 30 days before the trial.

6. GROUNDS TO BE ARGUED IN SUPPORT OF THE APPLICATION  
MOTIFS QUI SERONT INVOQUÉS À L'APPUI DE LA DEMANDE

(Briefly list the grounds you rely on in support of this Application. For example, "I require an adjournment because I am scheduled to have a medical operation the day the trial is scheduled to start"; "The disclosure provided by the Crown does not include the police notes taken at the scene"; or "There has been unreasonable delay since the laying of the charge that has caused me prejudice.")

(Énumérez brièvement les motifs que vous invoquez à l'appui de la demande. Par exemple : « J'ai besoin d'un ajournement parce que je dois subir une intervention médicale le jour prévu pour le début du procès. », « Les documents divulgués par la Couronne ne contiennent pas les notes de la police prises sur les lieux. » ou « Un retard excessif a suivi le dépôt des accusations qui m'a causé un préjudice. »)

1. **There is no valid purpose for the Applicant's testimony. The Applicant has no direct knowledge of the facts underlying these proceedings.**
2. **The documents requested in the subpoena served on the Applicant are third-party documents. They may not be disclosed at this stage of proceedings.**

7. DETAILED STATEMENT OF THE SPECIFIC FACTUAL BASIS FOR THE APPLICATION  
DÉCLARATION DÉTAILLÉE DES FAITS PRÉCIS SUR LESQUELS SE FONDE LA DEMANDE

1. **The subpoena, issued May 13, 2024, requires the Applicant "to give evidence concerning the...charge," and "to bring with [him] anything in [his] possession or under [his] control that relates to the said charge."**
2. **The Applicant does not have evidence to provide the Court with respect to the charges. Neither the Applicant nor the London Ontario RCMP were involved with the investigation regarding these proceedings.**
3. **The Applicant does not have anything in his possession relating to the said charge.**
4. **The Respondent has not demonstrated that the proposed witness, the Applicant, has or is likely to give material evidence.**
5. **The request for documents in the subpoena is an improper attempt at obtaining third party documents. The Respondent has not filed an O'Connor application for these third-party records.**
6. **The Crown, *amicus* and Defendant have been made aware of this application.**

8. INDICATE BELOW OTHER MATERIALS OR EVIDENCE YOU WILL RELY ON IN THE APPLICATION  
INDIQUEZ CI-DESSOUS D'AUTRES DOCUMENTS OU PREUVES QUE VOUS ALLEZ INVOQUER DANS LA DEMANDE

- Transcripts (Transcripts required to determine the application must be filed with this application.)  
*Transcriptions (Les transcriptions exigées pour prendre une décision sur la demande doivent être déposées avec la demande.)*
- Brief statement of legal argument  
*Bref exposé des arguments juridiques*

- Affidavit(s) (List below)  
Affidavits (Énumérez ci-dessous)

**Affidavit of Commanding Officer Matthew Peggs; Affidavit of Sonia Carneiro-Bahm.**

- Case law or legislation (Relevant passages should be indicated on materials. Well-known precedents do not need to be filed. Only materials that will be referred to in submissions to the Court should be filed.)  
*Jurisprudence ou lois.* (Les passages pertinents doivent être indiqués dans les documents. Les arrêts bien connus ne doivent pas être déposés. Il ne faut déposer que les documents qui seront mentionnés dans les observations au tribunal.)

- Agreed statement of facts  
*Exposé conjoint des faits*

- Oral testimony (List witnesses to be called at hearing of application)  
*Témoignage oral* (Liste des témoins qui seront appelés à témoigner à l'audience sur la demande)

- Other (Please specify)  
*Autre* (Veuillez préciser)

July 16, 2024

(Date)

*Clare Gover*

Signature of Applicant or Legal Representative / Signature de l'auteur de la demande ou de son représentant juridique

To: **Dierdre Moore, Defendant; Malcolm Savage and Lauren Hannough-Bergmans, Crown Prosecutors; Lauren Konarowski, Amicus.**

À : (Name of Respondent or legal representative / Nom de l'intimé ou de son représentant juridique)

**Defendant: 154 Somerset W, Ottawa, ON, Canada K2P 0H8.**

**Ontario Crown: malcolm.savage@ontario.ca, Lauren.Hannough-Bergmans@ontario.ca.**

**Amicus: lauren@dmlp.ca.**

(Address/fax/email for service / Adresse, numéro de télécopie ou adresse électronique aux fins de signification)

NOTE: Rule 2.1 requires that the application be served on all opposing parties and on any other affected parties.  
NOTA : La règle 2.1 exige que la demande soit signifiée à toutes les parties adverses et aux autres parties concernées.



4/35

Court File No.: 0411998231140906500

**SUPERIOR COURT OF JUSTICE  
(EAST REGION – OTTAWA)**

BETWEEN:

**MATTHEW PEGGS  
(Commanding Officer, RCMP Ontario Division)**

Applicant

- and -

**DIERDRE MOORE**

Respondent

---

**APPLICANT'S MOTION RECORD  
(Motion to Quash a Subpoena issued in the matter of *R v Moore*)**

---

**ATTORNEY GENERAL OF CANADA**  
Department of Justice  
National Litigation Sector  
Civil Litigation Sector  
50 O'Connor Street, Suite 500  
Ottawa, ON K1A 0H8

**Per: Clare Gover (LSO #83138G)**  
Fax: (613) 954-1920  
Tel: (343) 543-0576  
Email: [clare.gover@justice.gc.ca](mailto:clare.gover@justice.gc.ca)

Counsel for the Applicant



TO: Dierdre Moore  
154 Somerset W  
Ottawa, ON  
K2P 0H8

**Defendant / Respondent**

AND TO: Malcolm Savage and Lauren Hannough-Bergmans  
Ottawa Crown's Office  
161 Elgin St, 2<sup>nd</sup> floor  
Ottawa, ON, K2P 2K1  
Ministry of the Attorney General

Email: [malcolm.savage@ontario.ca](mailto:malcolm.savage@ontario.ca)  
[lauren.hannough-bergmans@ontario.ca](mailto:lauren.hannough-bergmans@ontario.ca)  
Phone: 613-291-6558

**Crown Counsel**

AND TO: Lauren Konarowski  
Davies McMahon LLP  
116 Lisgar Street, Suite 300  
Ottawa ON K2P 0C2

Email: [lauren@dmllp.ca](mailto:lauren@dmllp.ca)  
Phone: 613.230.0222

**Amicus Curiae**

AND TO: Ontario Court of Justice  
161 Elgin St., 2nd Fl.  
Ottawa, Ontario K2P 2K1

INDEX

TAB      DOCUMENTS

1.      Factum of the Applicant dated July 16, 2024
  
2.      Affidavit of Matthew Peggs, affirmed July 16, 2024
  
3.      Affidavit of Sonia Carneiro-Bahm, affirmed July 16, 2024

# TAB 1



**ONTARIO COURT OF JUSTICE  
(EAST REGION – OTTAWA)**

BETWEEN:

**MATTHEW PEGGS  
(Commanding Officer, RCMP Ontario Division)**

Applicant (Non-Party)

- and -

**DIERDRE MOORE**

Respondent

---

**APPLICANT'S FACTUM**

**Re: Motion to Set Aside a Subpoena issued in the matter of *R v Moore***

---

**ATTORNEY GENERAL OF CANADA**  
Department of Justice  
National Litigation Sector  
Civil Litigation Sector  
50 O'Connor Street, Suite 500  
Ottawa, ON K1A 0H8

**Per: Clare Gover (LSO #83138G)**  
Fax: (613) 954-1920  
Tel: (343) 543-0576  
Email: [clare.gover@justice.gc.ca](mailto:clare.gover@justice.gc.ca)

Counsel for the Applicant

TO: Dierdre Moore  
154 Somerset W  
Ottawa, ON  
K2P 0H8

**Defendant / Respondent**

AND TO: Malcolm Savage and Lauren Hannough-Bergmans  
Ottawa Crown's Office  
161 Elgin St, 2<sup>nd</sup> floor  
Ottawa, ON, K2P 2K1  
Ministry of the Attorney General

Email: [malcolm.savage@ontario.ca](mailto:malcolm.savage@ontario.ca) and [lauren.hannough-bergmans@ontario.ca](mailto:lauren.hannough-bergmans@ontario.ca).  
Phone: 613-291-6558

**Crown Counsel**

AND TO: Lauren Konarowski  
Davies McMahon LLP  
116 Lisgar Street, Suite 300  
Ottawa ON K2P 0C2

Email: [lauren@dmllp.ca](mailto:lauren@dmllp.ca)  
Phone: 613.230.0222

**Amicus Curiae**

AND TO: Ontario Court of Justice  
161 Elgin St., 2nd Fl.  
Ottawa, Ontario K2P 2K1

**INDEX**

PART I: FACTS .....1

PART II: ISSUE .....2

PART III: ARGUMENT.....3

    A. The right to issue a subpoena is restricted to requiring a person to attend and give evidence who is likely to give material evidence. .... 3

        (i) The request for documents is an improper attempt to obtain third party records ..... 4

    B. In the alternative, A/Comm Peggs should be permitted to appear by video..... 5

PART III - ORDER REQUESTED .....7

PART IV - AUTHORITIES .....8



**SUPERIOR COURT OF JUSTICE  
(EAST REGION – OTTAWA)**

BETWEEN:

**MATTHEW PEGGS  
(Commanding Officer, RCMP Ontario Division)**

Applicant (Non-Party)

- and -

**DIERDRE MOORE**

Respondent

---

**APPLICANT’S FACTUM  
(Motion to Set Aside a Subpoena issued in the matter of *R v Moore*)**

---

**PART I: FACTS**

1. The Applicant, Matthew Peggs (A/Comm Peggs), is the Commanding Officer of the Ontario Division of the Royal Canadian Mounted Police (RCMP) in London, Ontario.<sup>1</sup>
2. On May 28, 2024, the RCMP received a subpoena by mail, requesting that A/Comm Peggs attend court in Ottawa, at 161 Elgin Street in Ottawa on August 6, 7, and 8, 2024 in the matter of the Respondent’s trial for three criminal offences alleged to have occurred on December 16, 2023: (a) failing to comply with a probation order; (b) disobeying an order of the court; and (c) uttering threats/property damage.<sup>2</sup>
3. The subpoena was issued in the City of Ottawa and is dated May 13, 2024.<sup>3</sup>

---

<sup>1</sup> Affidavit of Matthew Peggs (“Peggs Affidavit”), Motion Record (“MR”) Tab 2 at para 1.

<sup>2</sup> Peggs Affidavit, MR Tab 2 at para 2; Exhibit A to Peggs Affidavit, MR Tab 2.

<sup>3</sup> Exhibit A to Peggs Affidavit, MR Tab 2.

4. The subpoena seeks A/Comm Peggs' attendance to give oral testimony, and to bring with him "anything in [his] possession or under [his] control that relates to the said charge."<sup>4</sup> The subpoena does not specify any documents, objects or other things required.<sup>5</sup>
5. A/Comm Peggs has never met the Respondent, nor was he or the London, Ontario RCMP involved with the investigation of the charges relating to these proceedings.<sup>6</sup>
6. A/Comm Peggs and the Respondent spoke once by phone, in 2020.<sup>7</sup> This conversation was unrelated to the charges relating to this proceeding and predates their alleged commission by at least three years.
7. The Central Intake Unit (CIU) of the RCMP performs a screening function, in which it intercepts and triages emails before deciding whether to release them to A/Comm Peggs' inbox.<sup>8</sup>
8. The CIU has received approximately 20 emails addressed to A/Comm Peggs from the Respondent from August 8, 2022, to December 12, 2023.<sup>9</sup> Those emails were withheld by the CIU and A/Comm Peggs has not personally received them.<sup>10</sup> The emails predate the charges and therefore do not describe them, nor are they in relation to them.<sup>11</sup>

**PART II: ISSUE**

9. The Applicant respectfully submits that the subpoena issued on May 13, 2024, compelling Commanding Officer Matthew Peggs to attend court should be set aside.

---

<sup>4</sup> Peggs Affidavit, MR Tab 2 at para 3; Exhibit A to Peggs Affidavit, MR Tab 2.  
<sup>5</sup> Exhibit A to the Affidavit, MR Tab 2.  
<sup>6</sup> Peggs Affidavit, MR Tab 2 at paras 4 and 5.  
<sup>7</sup> Peggs Affidavit, MR Tab 2 at paras 6-8.  
<sup>8</sup> Peggs Affidavit, MR Tab 2 at para 9.  
<sup>9</sup> Peggs Affidavit, MR Tab 2 at paras 10-12.  
<sup>10</sup> Peggs Affidavit, MR Tab 2 at para 10.  
<sup>11</sup> Peggs Affidavit, MR Tab 2 at para 11.

**PART III: ARGUMENT**

**A. This Court has the jurisdiction to excuse the Applicant from testifying**

10. The presiding judge may excuse the Applicant from testifying in this proceeding. Section 700(2) of the *Criminal Code* states the following:

A person who is served with a subpoena issued under this Part ... shall attend and shall remain in attendance throughout the proceedings **unless he is excused by the presiding judge**, justice or provincial court judge.<sup>12</sup> (emphasis added)

**B. The right to issue a subpoena is restricted to requiring a person to attend and give evidence who is likely to give material evidence.**

11. A/Comm Peggs has no material evidence to provide this Court.

12. Section 698(1) of the *Criminal Code* states the following:

Where a person is likely to give **material evidence** in a proceeding to which this Act applies, a subpoena may be issued in accordance with this Part requiring the person to attend to give evidence.<sup>13</sup> (emphasis added)

13. Section 698 of the *Criminal Code* requires a judicial determination that the proposed witness to be subpoenaed "is likely to give material evidence." The issuance of a subpoena is not "a mere administrative function."<sup>14</sup>

14. The persuasive burden of the proof is not on an applicant to establish that the potential witness does not have relevant, material and admissible evidence. Rather, the evidentiary and persuasive burden is on the respondent.<sup>15</sup> In order to meet the test of materiality to justify the issuance of a subpoena, the respondent cannot merely allege that the witness

<sup>12</sup> *Criminal Code*, (R.S.C., 1985, c. C-46) [*Criminal Code*] at s. 700(2).

<sup>13</sup> *Criminal Code* at s. 698(1).

<sup>14</sup> *Dykstra v Greensword*, 2016 ONSC 8211 at para 57 [*Dykstra*]; see paras 47-66.

<sup>15</sup> *R v Harris (1994)*, 1994 CanLII 2986 (ON CA) [*Harris*].



may have material evidence but rather must *demonstrate* that it is *likely* that the witness can give material evidence.<sup>16</sup>

15. Black’s Law Dictionary (third edition) defines “material evidence” as follows:

Such as is relevant and goes to the substantial matters in dispute, or has a legitimate and effective influence or bearing on the decision of the case.  
(emphasis added)

16. A/Comm Peggs’ affidavit indicates that he was not involved in the investigation of and has no knowledge of the charges relating to this proceeding.<sup>17</sup> The Ontario Division of the RCMP likewise was not involved.

17. A/Comm Peggs’ contact with the Applicant was limited to an unrelated phone call in 2020 that predates the charges by at least three years. As a result, A/Comm Peggs’ evidence on this matter is not material.

18. The Respondent has not demonstrated that it is likely that the A/Comm Peggs can provide material evidence, as is required. The subpoena should be set aside.

***(i) The request for documents is an improper attempt to obtain third party records***

19. A/Comm Peggs is not the appropriate record keeper from whom the Respondent should seek documents concerning the charges relating to this proceeding. That is because A/Comm Peggs is not in possession of such records, nor has he ever been. The appropriate record keeper is the Respondent’s local police service.

20. Even if the emails addressed to A/Comm Peggs were material to the underlying proceeding, they are not in A/Comm Peggs’ possession. These are third-party records, held by the RCMP’s CIU. The subpoena was not accompanied by an appropriate

---

<sup>16</sup> *Harris; Dykstra* at para 57.

<sup>17</sup> Peggs Affidavit, MR Tab 2 at para 4.

application for third-party records, as outlined by the Supreme Court of Canada in *O'Connor*.<sup>18</sup>

21. In *O'Connor*, the Supreme Court of Canada confirmed that the request to bring documents to court via subpoena is not a production order. Production, the Court indicated, “will only be ordered if the documents are likely to be relevant and if production is appropriate, having regard to all of the relevant considerations.”<sup>19</sup>
22. The process for obtaining third party records, pursuant to the direction in *O'Connor* was succinctly laid out by this Court in *Campbell*.<sup>20</sup> The party seeking third party records must serve a subpoena *duces tecum*, and then make an application to the court, supported by affidavit evidence, as to why the documents are appropriate and relevant. Notice must be given to the Crown and all other interested individuals. The court then proceeds on a review as to the relevance of the documents, and the extent to which they should be disclosed.<sup>21</sup>
23. Ultimately, these documents are not material evidence relevant to the underlying proceeding. Even so, the Respondent has not sought third party documents from the proper record holder, nor has she made the proper application to this Court for production of those documents.

**C. In the alternative, A/Comm Peggs should be permitted to appear by video.**

24. In the alternative, A/Comm Peggs should be permitted to appear by videoconference from his office in London, Ontario. The Court has “wide discretion to allow witnesses to testify via videoconference.”<sup>22</sup> The request is made to minimize the cost associated with travelling to Ottawa to testify, including transportation and hotel fees.<sup>23</sup>

<sup>18</sup> *R v O'Connor*, 1995 CanLII 51 (SCC), [1995] 4 SCR 411.

<sup>19</sup> *Ontario (Provincial Police) v Mosher*, 2015 ONCA 722 at paras 85, 89 [*Mosher*].

<sup>20</sup> *R v Campbell*, 2015 ONSC 4078 at para 8 [*Campbell*].

<sup>21</sup> *Mosher* at para 113; *Campbell* at para 8.

<sup>22</sup> *R. v Rowe [Rowe]*, 2021 CanLII 38314 (NL PC) at para 3.

<sup>23</sup> Peggs Affidavit, MR Tab 2 at para 14; also see: *Criminal Code* at s. 714(a) and (b); *Rowe* at para 29: the Court may take judicial notice of the cost of airfare and accommodation.

25. A/Comm Peggs has indicated that he will have access to a reliable internet connection and computer from which to testify.<sup>24</sup> Testifying from an office is in accordance with s. 714.1 of the *Criminal Code*.<sup>25</sup> There is no inherent impact on the accused's right to a fair and public hearing by permitting A/Comm Peggs to testify by videoconference.<sup>26</sup> The Applicant's alternate relief sought complies with the factors enumerated in section 714.1 of the *Criminal Code*, and therefore A/Comm Peggs should be permitted to testify by videoconference.

**D. An extension of time should be granted in the circumstances**

26. An extension of time to file these materials is reasonable and just in the circumstances. The Applicant has acted diligently in bringing this motion since being served with the subpoena on May 28, 2024.

27. Rule 2.6 of the *Criminal Rules of the Ontario Court of Justice* states the following:

An application...by a witness or by the media, shall be heard at least 30 days before the trial, unless the Court orders otherwise. (emphasis added)<sup>27</sup>

28. The Applicant has a demonstrated continuing intention to bring the present application.<sup>28</sup> It took time to verify what knowledge, if any, A/Comm Peggs and the RCMP had of the charges. On June 10 and June 20, 2024, counsel was provided with documentation necessary to confirm that the Applicant was not involved in nor had any knowledge of the charges.<sup>29</sup>

29. Materials were prepared for a motion to quash the subpoena before the Ontario Superior Court (ONSC) but were not filed once counsel learned of the July 23 hearing date on July 8, 2024.<sup>30</sup> Furthermore, the ONSC Registry has not confirmed whether it would be possible

---

<sup>24</sup> Peggs Affidavit, MR Tab 2 at para 14; also see: *Criminal Code* at s. 714.1 (d).

<sup>25</sup> *Rowe* at para 22.

<sup>26</sup> *Rowe* at para 32.

<sup>27</sup> *Criminal Rules of the Ontario Court of Justice* at Rule 2.6.

<sup>28</sup> Affidavit of Sonia Carneiro-Bahm, MR Tab 3 at para 3 [Carneiro-Bahm Affidavit].

<sup>29</sup> Carneiro-Bahm Affidavit at para 4.

<sup>30</sup> Carneiro-Bahm Affidavit at para 5.

to set a hearing date prior to the trial commencing on August 6, 2024.<sup>31</sup> As the parties were already appearing on July 23, 2024, in consideration of judicial economy, counsel instead brought an application before this Court to determine the matter pursuant to its powers under s. 700(2) of the *Criminal Code*.<sup>32</sup>

30. There is no prejudice to the Respondent in permitting this extension of time. Rather, the subpoena is an improper attempt to obtain third-party documents and immaterial testimony. It is in the interests of justice to grant an extension of time to bring this application.

### **PART III - ORDER REQUESTED**

31. It is respectfully submitted that the subpoena should be set aside. In the alternative, that the witness be excused from testifying on the basis that he has no material evidence to give.
32. In the further alternative, it is requested that Matthew Peggs be permitted to testify via video, to alleviate the need for him to travel from London and Halifax to Ottawa.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**

DATED at OTTAWA this 16<sup>th</sup> day of July, 2024.

*Clare Gover*

---

**Clare Gover**  
Counsel for the Applicant

---

<sup>31</sup> Carneiro-Bahm Affidavit at para 7.

<sup>32</sup> Carneiro-Bahm Affidavit at para 6.

**PART IV – LIST OF AUTHORITIES****Tab Legislation & Rules Cited**

1. *Criminal Code*, RSC 1985, c C-46
2. *Criminal Rules* of the Ontario Court of Justice

**Cases Cited**

3. *Dykstra v Greensword*, 2016 ONSC 8211
4. *Ontario (Provincial Police) v Mosher*, 2015 ONCA 722
5. *Ontario (Provincial Police) v Mosher*, 2015 ONCA 722
6. *R v Harris (1994)*, 1994 CanLII 2986 (ON CA)
7. *R v Campbell*, 2015 ONSC 4078
8. *R v O'Connor*, 1995 CanLII 51 (SCC), [1995] 4 SCR 411
9. *R. v Rowe*, 2021 CanLII 38314 (NL PC)



Court File No: 0411998231140906500

**MATTHEW PEGGS**  
(Commanding Officer, RCMP Ontario Division)

AND

**DIERDRE MOORE**

Applicant

Respondent

---

**ONTARIO COURT OF JUSTICE**

Proceeding Commenced at  
Ottawa

---

**APPLICANT'S FACTUM**

---

**ATTORNEY GENERAL OF CANADA**

Department of Justice Canada  
Civil Litigation Section  
50 O'Connor Street  
Ottawa, ON K1A 0H8  
Fax: 613-954-1920

**Per: Clare Gover (LSO #83138G)**  
Fax: (613) 954-1920  
Tel: (343) 543-0576  
Email: [clare.gover@justice.gc.ca](mailto:clare.gover@justice.gc.ca)

Lawyer for the Applicant

19/35 9

# TAB 2



ONTARIO COURT OF JUSTICE  
(EAST REGION – OTTAWA)

BETWEEN:

**MATTHEW PEGGS**  
(Regional Commander, RCMP Ontario Division)

Applicant

- and -

**DIERDRE MOORE**

Respondent

---

**AFFIDAVIT OF MATTHEW PEGGS, affirmed July 16, 2024**

---

I, Assistant Commissioner MATTHEW PEGGS, of London, Ontario, DO AFFIRM THAT:

1. I am the Regional Commander with the Royal Canadian Mounted Police (RCMP) for Ontario and my office is in London, Ontario. I have been in this position since September 2023, and have been employed by the RCMP for 24 years.
2. On May 28, 2024, my office received, by mail, a subpoena requesting my attendance to give evidence at the Ottawa Courthouse, at 161 Elgin Street in Ottawa on August 6, 7, and 8, 2024. The subpoena was issued in the City of Ottawa and is dated May 13, 2024. A copy of the subpoena is attached hereto as **Exhibit A**.
3. The subpoena also requests that I bring with me “anything in [my] possession or under [my] control that relates to the said charge.”

4. I do not have evidence to provide the Court with respect to the charges. Neither myself, nor the London, Ontario RCMP were involved with the investigation of the charges relating to these proceedings.

Phone Call with Respondent: 2020

5. I have never met the Respondent, nor would I be able to identify her.
6. I spoke with the Respondent once via phone call, in 2020. At this time, I was employed as the Criminal Operations Officer. Without knowing the exact date, I am unable to confirm whether I have notes from this call.
7. During the phone call the Applicant told me that she was the subject of a conspiracy involving the Ottawa Police and the Ontario Ministry of the Attorney General, related to child abuse. She also advised that she intended to move to New Brunswick.
8. I advised the Applicant that she should inform her local police about the conspiracy, and that, if it met the RCMP's mandate, it would funnel up to the RCMP. I advised her of this because, on its face, the concerns she raised did not involve the RCMP's mandate in Ontario.

Emails from Respondent to Central Intake Unit: 2022-2023

9. The RCMP receives and triages many emails addressed to me that do not ever reach me personally. The RCMP's Central Intake Unit (CIU) intercepts and triages emails and determines whether they should be released to my inbox.

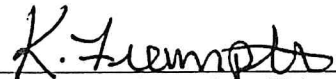
10. I am informed by the CIU, and do verily believe, that the Respondent attempted to contact me approximately 19 times between August 8, 2022, and July 2, 2023. The Respondent also attempted to contact me on December 12, 2023. I did not personally review these emails.
11. I am further informed by the CIU, and do verily believe, that the Respondent's emails described topics including: (a) her upcoming divorce; (b) withdrawn charges involving the RCMP that are unrelated to the charges at issue in this proceeding; (c) her desire to transfer a probation order from Ontario to Newfoundland; (d) mentions of charges from Ottawa Police from when she lived in Ottawa; (e) her desire to have a file transferred from Harbour Grace, Newfoundland, to St. John's, Newfoundland; (f) domestic violence; (g) her desire to sue the Ottawa Police Services Board for extortion; (h) various charges from other jurisdictions.
12. Based on my understanding of the emails received from August 8, 2022, to December 12, 2023, as well as the December 16 2023 date of the offences to which the subpoena relates, I believe that the emails do not pertain to the charges at issue in this proceeding.
13. I have a prior scheduled commitment in Halifax, Nova Scotia on August 8, 2024, coinciding with part of the hearing. My commitment is for meetings with the National Executive Council overseeing the Canadian Integrated Response to Organized Crime Group (CIROC).
14. If I am required to testify, I would ask that I be permitted to appear by videoconference on August 6 or 7, 2024. I will have a reliable internet connection and computer from which to testify from my office in London. I make this request in an effort to minimize the cost


24/35

associated with testifying in Ottawa, including travel costs such as transportation and hotel fees.

15. I make this affidavit in support of the application to quash the subpoena referred to at Appendix A, and for no other or improper purpose.

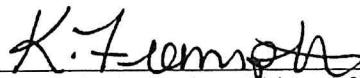
AFFIRMED BEFORE ME )  
at the City of London, )  
in the Province of Ontario, )  
this 16<sup>th</sup> day of July 2024 )

  
\_\_\_\_\_  
A Commissioner for affidavits in Ontario

  
\_\_\_\_\_  
MATTHEW PEGGS

Kimberley Anne Frampton, a Commissioner, etc.,  
Province of Ontario, for the Government of Canada,  
Department of Public Safety and Emergency  
Preparedness. Expires April 12, 2027.

This is Exhibit "A" referred to in the Affidavit of  
MATTHEW PEGGS, affirmed before me  
this 16<sup>th</sup> day of July, 2024



\_\_\_\_\_  
Commissioner for Taking Affidavits

Kimberley Anne Frampton, a Commissioner, etc.,  
Province of Ontario, for the Government of Canada,  
Department of Public Safety and Emergency  
Preparedness. Expires April 12, 2027.

Exhibit A 26/35

**SUBPOENA TO A WITNESS  
ASSIGNATION À UN TÉMOIN  
ONTARIO COURT OF JUSTICE**

Form/Formule 16  
Section/Article 699

CANADA  
PROVINCE OF ONTARIO  
PROVINCE DE L'ONTARIO

To/à: **Matt Peggs**  
Of/de: **the London RCMP, 0 Division RCMP Headquarters, 130  
Dufferin Ave, 5<sup>th</sup> Floor, London, ON N6A 5R2**

WHEREAS/ATTENDU QUE **DEIRDRE ANN MOORE (DOB: 1965/09/28)** has been charged that she on *la été inculpé*  
*d'avoir le ou vers*

the/ **16th day of December 2023, in the East/De L'Est Region** *Idans ladite région,*

did unlawfully commit the offence of *illégalement commis l'infraction* consistant à:

- 733.1(1) Failure to comply with probation order;
- 127(1) Disobey lawful order of court;
- 264.1(1)(b) Uttering threats/property damage

and It has been made to appear that you are likely to give material evidence for the defence  
*et qu'on a donné à entendre que vous êtes probablement en état de rendre un témoignage essentiel pour la poursuite.*

THEREFORE, this is to command you to attend before the presiding judge or justice on the  
*À CES CAUSES, les présentes ont pour objet de vous enjoindre de comparaître devant le Juge d'audience à ou le juge de paix le*

**6th, 7th, and 8th days of August, 2024, in Ottawa at 10AM before Justice Sirlvar—161 Elgin Street, Ottawa,  
ON K2P 2K1.**

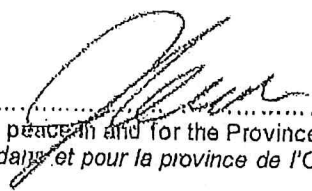
(ignore if not  
completed)

to give evidence concerning the above charge;  
*pour rendre témoignage au sujet de ladite inculpation;*

(ne s'applique  
que si la case  
est cochée)

and to bring with you anything in your possession or under your control that relates to the  
said charge, and more particularly the following: (specify any documents, objects or other things  
required).  
*et d'apporter avec vous toute chose en votre possession ou sous votre contrôle qui se  
rattache à ladite inculpation, et en particulier les suivantes: (indiquer les documents, les objets ou  
autres choses requises).*

Dated the/*13<sup>th</sup>* Fall le 13<sup>th</sup> day of /*jour de* May, 2024, at the City of Ottawa, Province of Ontario.

  
Justice of the peace in and for the Province of Ontario or Clerk of the Court  
*Juge de paix dans et pour la province de l'Ontario ou greffier du tribunal*

HW J.L. Robinson  
Justice of the Peace



# TAB 3

28/35

Court File Number: 0411998231140906500

**ONTARIO COURT OF JUSTICE  
(EAST REGION – OTTAWA)**

BETWEEN:

**MATTHEW PEGGS**  
**(Regional Commander, RCMP Ontario Division)**

Applicant (Non-Party)

- and -

**DIERDRE MOORE**

Respondent

---

**AFFIDAVIT OF SONIA CARNEIRO-BAHM, affirmed July 16, 2024**

---

I, Assistant Commissioner SONIA CARNEIRO-BAHM, of Spencerville, Ontario, DO AFFIRM THAT:

1. I am employed as a Legal Assistant in the Civil Litigation Section of the National Litigation Sector of the Department of Justice. I am assisting Clare Gover, who has carriage of this matter on behalf of the Applicant.
2. On May 28, 2024, our office received a copy of a subpoena for the Applicant, Matthew Peggs to appear in court on August 6, 7, and 8, 2024. A copy of the subpoena is attached as Exhibit "A" to this Affidavit.
3. It took some time for our office to ascertain what knowledge, if any, the Applicant and the Royal Canadian Mounted Police (RCMP) had of the facts underlying the charges. On June 10, 2024, our office received documents from the RCMP which were necessary to ground

29/35

that understanding. On June 20, 2024, our office was provided with further documents to confirm that the Applicant had no involvement or knowledge of the charges.

4. We prepared a motion record for the matter to be heard in the Ontario Superior Court (“ONSC”). Those materials were completed by July 10, 2024, but not served nor filed because on July 8, 2024, our office became aware of the July 23, 2024 hearing date before this Court.
5. Additionally, it was not clear that we would obtain a hearing date before the ONSC prior to the August 2024 trial dates. I contacted the ONSC in June and July to ascertain whether this would be possible, without response. I personally left voicemails with the ONSC in early June and on July 10, 2024. In my absence on July 5, 2024, another assistant in the Civil Litigation Section contacted the Court by email on the same matter.
6. I make this affidavit in support of the application to set aside the subpoena referred to at Exhibit “A”, and for no other or improper purpose.

AFFIRMED remotely by Sonia Carneiro - )  
 Bahm in the City of Spencerville, in the )  
 Province of Ontario, before me on July 16, )  
 2024, in accordance with O. Reg 431/20, )  
*Administering Oath or Declaration* )  
*Remotely.* )

Digitally signed by Bradley, Caroline O  
 DN: C=CA, O=GC, OU=Jus-Jus, CN="Bradley,  
 Caroline O"  
 Reason: I agree to the terms defined by the  
 placement of my signature in this document  
 Location: Ottawa, Ontario  
 Date: 2024.07.16 15:08:49-04'00'  
 Foxit PDF Editor Version: 13.1.0

A Commissioner for affidavits in Ontario

Sonia Carneiro 2024.07.16  
 -Bahm 15:03:08-04'00'

SONIA CARNEIRO-BAHM

Caroline Patricia Thelma Bradley, a Commissioner, etc.,  
 Province of Ontario, for the Government of Canada,  
 Department of Justice.  
 Expires March 10, 2025.

Caroline Patricia Thelma Bradley, a commissaire, etc.,  
 province de l'Ontario, au service du gouvernement du  
 Canada, ministère de la Justice  
 Date d'expiration : le 10 mars, 2025.

This is Exhibit "A" referred to in the Affidavit of  
SONIA CARNEIRO-BAHM, affirmed remotely before me  
this 16<sup>th</sup> day of July, 2024



Digitally signed by Bradley, Caroline O  
DN: C=CA, O=GC, OU=Jus-Jus, CN="Bradley,  
Caroline O"  
Reason: I agree to the terms defined by the placement  
of my signature in this document  
Location: Ottawa, Ontario  
Date: 2024.07.16 15:09:24-04'00'  
Foxit PDF Editor Version: 13.1.0

Commissioner for Taking Affidavits

in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely*

**Caroline Patricia Thelma Bradley, a Commissioner, etc.,  
Province of Ontario, for the Government of Canada,  
Department of Justice.  
Expires March 10, 2025.**

**Caroline Patricia Thelma Bradley, a commissaire, etc.,  
province de l'Ontario, au service du gouvernement du  
Canada, ministère de la Justice.  
Date d'expiration : le 10 mars, 2025.**

**Carneiro-Bahm, Sonia (she her elle la)**

---

**From:** Gover, Clare (she her elle la)  
**Sent:** Tuesday, July 16, 2024 2:36 PM  
**To:** Carneiro-Bahm, Sonia (she her elle la)  
**Subject:** FW: Dierdre Moore Subpoena RCMP  
**Attachments:** Subpoena\_Peggs.pdf  
  
**Categories:** SAVED

**Clare Gover** (she/her/elle)  
Counsel | Avocate  
[clare.gover@justice.gc.ca](mailto:clare.gover@justice.gc.ca) | 343-543-0576

---

**From:** Ferguson, Steven (RCMP/GRC) <[steven.ferguson@rcmp-grc.gc.ca](mailto:steven.ferguson@rcmp-grc.gc.ca)>  
**Sent:** Tuesday, May 28, 2024 3:52 PM  
**To:** Gover, Clare (she; her | elle; la) <[Clare.Gover@justice.gc.ca](mailto:Clare.Gover@justice.gc.ca)>; Morrissy, William (RCMP) <[william.morrissy@rcmp-grc.gc.ca](mailto:william.morrissy@rcmp-grc.gc.ca)>  
**Subject:** RE: Dierdre Moore Subpoena RCMP

Good afternoon,

We received a subpoena for A/COMM PEGGS for this matter today. Subpoena is attached and for August 8, 2024 in Ottawa.

Hopefully this can get resolved before that time. Please let me know if I can be of any assistance.

Best regards

Steve

---

32/35

**SUBPOENA TO A WITNESS  
ASSIGNATION À UN TÉMOIN  
ONTARIO COURT OF JUSTICE**

Form/Formule 16  
Section/Article 699

CANADA  
PROVINCE OF ONTARIO  
PROVINCE DE L'ONTARIO

To/à: **Matt Peggs**  
Of/de: **the London RCMP, 0 Division RCMP Headquarters, 130  
Dufferin Ave, 5<sup>th</sup> Floor, London, ON N6A 5R2**

WHEREAS/ATTENDU QUE **DEIRDRE ANN MOORE (DOB: 1965/09/28)** has been charged that she on /a été inculpé  
d'avoir le ou vers

the/ **16th day of December 2023, in the East/De L'Est Region /dans ladite région,**

did unlawfully commit the offence of/illégalement commis l'infraction consistant à:

- 733.1(1) Failure to comply with probation order;**
- 127(1) Disobey lawful order of court;**
- 264.1(1)(b) Uttering threats/property damage**

and it has been made to appear that you are likely to give material evidence for the defence  
et qu'on a donné à entendre que vous êtes probablement en état de rendre un témoignage essentiel pour la poursuite.

THEREFORE, this is to command you to attend before the presiding judge or justice on the  
À CES CAUSES, les présentes ont pour objet de vous enjoindre de comparaître devant le juge d'audience à ou le juge de paix le

**6th, 7th, and 8th days of August, 2024, in Ottawa at 10AM before Justice Sirivar—161 Elgin Street, Ottawa,  
ON K2P 2K1.**

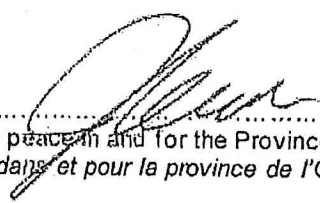
(ignore if not  
completed)

to give evidence concerning the above charge;  
pour rendre témoignage au sujet de ladite inculpation;

(ne s'applique  
que si la case  
est cochée)

and to bring with you anything in your possession or under your control that relates to the  
said charge, and more particularly the following: (specify any documents, objects or other things  
required).  
et d'apporter avec vous toute chose en votre possession ou sous votre contrôle qui se  
rattache à ladite inculpation, et en particulier les suivantes: (indiquer les documents, les objets ou  
autres choses requises).

Dated the/Fait le 13<sup>th</sup> day of/jour de May, 2024, at the City of Ottawa, Province of Ontario.



Justice of the peace in and for the Province of Ontario or Clerk of the Court  
Juge de paix dans et pour la province de l'Ontario ou greffier du tribunal

HW J.L. Robinson  
Justice of the Peace



AND

**MATTHEW PEGGS**  
(Commanding Officer, RCMP Ontario Division)

Applicant

**DIERDRE MOORE**

Respondent

---

**ONTARIO COURT OF JUSTICE**

Proceeding Commenced at  
Ottawa

---

**AFFIDAVIT OF SONIA CARNEIRO-  
BAHM**

---

**ATTORNEY GENERAL OF CANADA**

Department of Justice Canada  
Civil Litigation Section  
50 O'Connor Street  
Ottawa, ON K1A 0H8  
Fax: 613-954-1920

**Per: Clare Gover (LSO #83138G)**  
Fax: (613) 954-1920  
Tel: (343) 543-0576  
Email: [clare.gover@justice.gc.ca](mailto:clare.gover@justice.gc.ca)

Lawyer for the Applicant

33/35

AND

**MATTHEW PEGGS**  
(Commanding Officer, RCMP Ontario Division)

Applicant

**DIERDRE MOORE**

Respondent

---

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at  
Ottawa

---

**APPLICANT'S MOTION RECORD**  
(Motion to Quash a Subpoena issued in the matter of  
*R v Moore*)

---

**ATTORNEY GENERAL OF CANADA**

Department of Justice Canada  
Civil Litigation Section  
50 O'Connor Street  
Ottawa, ON K1A 0H8  
Fax: 613-954-1920

**Per: Clare Gover (LSO #83138G)**  
Fax: (613) 954-1920  
Tel: (343) 543-0576  
Email: [clare.gover@justice.gc.ca](mailto:clare.gover@justice.gc.ca)

Lawyer for the Applicant