

IN THE MAGISTRATES COURT OF VICTORIA AT DANDENONG

[REDACTED]

BETWEEN:

VICTORIA POLICE INFRINGEMENTS

Informant

and

[REDACTED]

Accused

ACCUSED'S OUTLINE OF SUBMISSIONS

1. The Accused submits that he has clearly objected to this matter from its inception and any reasonable person would see this most clearly. Accordingly, the Accused submits, the issuing party was bound to make application for this matter to proceed before a court of competent jurisdiction.
2. The Accused submits that if this matter is to be treated as a criminal matter in the court system then general criminal principles must apply - specifically, but not limited to, the fact that it is the role of the Accuser to take a matter to court and not for the Accused to "elect" to go to court. After all, an accused person would hardly "elect" to go to court if he had been accused of rape or murder.
3. The Accused submits that any Statute that states otherwise in null and void and of no legal force or effect to the extent that infringes on the Common Law rights of the Accused to have a matter so heard that he has clearly objected to.
4. In any event, the Accused submits that this is plain and simply a civil matter and not a criminal matter – as it involves the dealings of two private entities or Corporations, being Breeze/Eastlink and Vicroads – and, accordingly, this court is not the correct for this matter to be heard.
5. The Accused submits that the originating Corporation – Breeze – had no right to access the private details of the Accused, namely his name and address. The Accused submits that without illegally accessing those details, the matter would not have proceeded in any way and we would not be before this court today applying for revocation of an illegal and void Enforcement Order Notice.
6. The Accused submits that a private company or corporation is not allowed to contravene an Act of the Commonwealth – specifically, but not limited to, the Privacy Act 1988 - in order to satisfy an alleged civil debt – which they have no proof of, as no contract/deed/agreement exists between them and the Accused – or to enforce a Statute.

7. The Accused submits that there is no law or act in existence that binds a flesh and blood human being to a Statute without that human's consent to be so bound.
8. The Accused submits that the legislation upon which Breeze relied on to refer the matter to Victoria Police, in order for them to issue an Infringement Notice, has not been lawfully enacted.
9. The Accused submits that all process subsequent to that – specifically, but not limited to, the issuing of a Reminder Notice and the issuing of an Enforcement Order Notice – are Void Ab Initio.
10. The Accused submits that the process of an Infringement's Court is Unconstitutional on the grounds that the Infringement's Registrar is required to accept, as fact, the submissions of the issuing agency. However, this would place the court outside of its bounds of duty – which are to accept evidence impartially. The Accused submits that courts of competent jurisdiction are bound to assess information and/or evidence impartially.
11. The Accused further submits that the act of the Infringement Registrar taking on board allegations of the issuing agency and issuing an Enforcement Order is a violation of the separation of powers of the legislators (Parliament), the executives (Government) and the judiciary (Courts).
12. The Accused further submits that this process violates the Common Law rights of the Accused, specifically, but not limited to, his rights to oppose such evidence or provide evidence to the contrary. The Accused submits that he was not afforded an opportunity to challenge the information provided to the Infringement's Court prior to them issuing the Enforcement Order Notice. Thus, any such order is null and void and of no legal force or effect and, the Accused submits, the court is judicially bound to revoke any order so made.
13. The Accused submits that the Notice of Revocation Refusal, issued by the Infringement's Registrar is also Unconstitutional, null and void and of no legal force or effect, on the grounds that a Registrar cannot review his, or her, own decision.
14. The Accused submits that an Infringement's Court is a computer court, it is not a court of competent jurisdiction and thus, all so-called "orders" issued by such a court are null and void and of no legal force or effect and must be revoked.
15. The Accused further submits that the Infringement's Court is, at best, an administrative court and does not have the power or authority to make judicial decisions. Accordingly, any so-called "orders" that it makes are null and void and of no legal force or effect.

16. The Accused submits that Section 8, Sub-section 12 of the Imperial Acts Application Act 1980 states *“That all grants and promises of fines and forfeitures of particular persons before conviction, are illegal and void.”*
17. The Accused submits that he has not been so accused by a court of competent jurisdiction and therefore, the application for revocation of the existing Enforcement Order must be granted.
18. The Accused further submits that the Imperial Acts Application Act is thoroughly ingrained/entrenched in the legislation of all States and Territories.
19. The Accused submits that the Infringements Act 2006 has been validly challenged by Mr Gerrit Schorel-Hlavka on 23 February 2011. Accordingly, it is Ultra Vires until or unless a court declares it otherwise. The Accused submits that it has been challenged on Constitutional grounds and therefore no court can hear or determine any case involving the Infringement’s Act 2006.
20. The Accused relies on the ruling of Justice Latham in the Uniform Tax Case in the High Court of Australia – HCA 1942 (65 CLR 373 at 408) – in this regard - *“Common expressions such as: ‘The Courts have declared a statute invalid’,”* says Chief Justice Latham, *“sometime lead to misunderstanding. A pretend law made in excess of power is not and never has been a law at all. **Anybody in the country is entitled to disregard it.** Naturally, he will feel safer if he has a decision of a court in his favour, but such a decision is not an element that produces invalidity in any law. The law is not valid until a court pronounces against it – and thereafter invalid. If it is beyond power it is void ab initio”* - Uniform Tax Case HCA (High Court of Australia) 1942 (65 CLR 373 at 408).
21. The Accused submits that the onus is on the Prosecutor to prove jurisdiction once this challenge has been made.
22. Finally, the accused submits that it would be an absurd set of double standards, as well as a gross miscarriage of justice, to allow a fine to stand when the Accused can prove he didn’t commit the offence because he was in another country and therefore can’t nominate a driver either, yet more than 100 police officers have been let of serious driving offences – including running red lights and exceeding the speed limit by up to 40 km/h – because no-one could nominate a driver, yet all police vehicles have log books. The accused submits that, on that basis alone, the Enforcement Order must be revoked so that justice can be done in this matter.

Dated 13 September 2011



