

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
PROCEEDING COMMENCED IN KENORA**

**BETWEEN:**

**ATTORNEY GENERAL OF ONTARIO**

**Applicant**

**and**

**2269 Highway # 105, Rugby Township, (IN REM) AND MONTY'S GUNSMITHING  
INC., WILLIAM BRUCE MONTAGUE, AND DONNA JEANNE MONTAGUE**

**Respondents**

**MOTION FOR SUBSTITUTED SERVICE**

**FACTUM OF THE ATTORNEY GENERAL OF ONTARIO**

**PART 1 – FACTS**

1. Justice McCartney issued an ex parte order (the "Order") on September 14, 2005 preserving 2269 Highway # 105, Rugby Township (the "property").

**Affidavit of John MacNeil of 26 September 2005 at paragraph 2 and Exhibit A.**

2. The Order requires Monty's Gunsmithing Inc., William Bruce Montague, and Donna Jeanne Montague to be served personally. The corporate defendant is to be served by serving William Bruce Montague personally.

**Affidavit of John MacNeil of 26 September 2005 Exhibit A.**

3. Mr. and Mrs. Montague are facing numerous firearms charges. Two search warrants were executed at the Property, the Montague's residence and place of business, and approximately 200 firearms were located.
4. Detective Constable Don CUNNINGHAM of the Dryden O.P.P. Crime Unit on the 09th of September 2004, appeared before Justice MORRISON in Kenora, Ontario and swore a criminal Information charging both William Bruce Montague and Donna Jeanne Montague with possession of firearms without a licence contrary to Section 91(1) of the *Criminal Code*. Warrants were issued for the arrest of both parties, with a Feeney endorsement present for Mrs. Montague's arrest warrant. Due to officer safety concerns, it was decided that Mr. Montague would be arrested prior to attending at the residence to execute the search warrant.

**Affidavit of Dwain Hill at paragraph 20.**

5. On the 11th September 2004, members of the Ontario Provincial Police arrested Mr. Montague at the Agricultural Fair Grounds in Dryden Ontario where he had attended in preparation for a gun show that was to commence that day at 1000 hrs. He was arrested at 0839 hrs. by Detective Constable Belluz and was advised of his Constitutional rights.

**Affidavit of Dwain Hill at paragraph 21.**

6. On his arrest, Mr. Montague was carrying a clip on folding knife with a serrated edge clipped to his belt on the inside of his pants near the small of his back. He also had a multi-purpose tool in a pouch on his right hip and a small pocketknife in his front right pocket. When he was first approached by arresting officers and told they had a

- e. A loaded .22 caliber Savage rifle (4 live rounds) was found among the guns that appeared to be there for repair. Mr. Montague has been charged with careless storage in relation to this weapon.
- f. Many rounds (enough to fill five large Tupperware tubs) of many different calibers of ammunition were found in the residence as well as powder, etc. to make ammunition.
- g. Eight (8) sticks of dynamite were found in a plastic bag in a freezer just inside the residence among the families' frozen food products. These items and the circumstances under which they were found are the basis for the Section 79 and Section 82(1) charges relating to explosives. These items were seized by the O.P.P. Explosive Disposal Unit (E.D.U.) and had to be disposed of on the 14th of September, when they began to "sweat" and became unstable in the opinion of the E.D.U. members. The items were photographed and a video was taken for evidentiary purposes of one stick of dynamite being exploded.
- h. A video on "snipers" was observed in a display cabinet in the business office and a book on "snipers" was observed on a nightstand beside the bed in the master bedroom.
- i. Two prohibited magazines- Subject to Verification - (one a 13 capacity magazine for a *Sig Sauer P228* and the other a 9.5" long magazine believe to be for a machine gun). Mr. Montague will be facing possession of prohibited devices charges in relation to these magazines once verified.
- j. A "Carl GUSTAFS" bolt-action rifle with scope was located in the basement gunroom. This gun had a hole drilled directly through one number and part of

another number of the serial number of the firearm in contravention of Section 108(1)(b) of the *Criminal Code*. Mr. MONTAGUE has been charged with this offence.

- k. The computer used in the business was seized pursuant to Section 489 of the *Criminal Code* on reasonable grounds it will afford evidence with respect to the offences being investigated (i.e.: location of missing firearms).
- l. Armored Vests (military style) and a bulletproof vest (police style) were found in the basement and photographed but not seized.
- m. One wall in the basement contained a large number of various weapons (knives, swords, etc) that while not illegal, represent a significant danger to any officer having to enter the residence for any investigation.
- n. There was approximately 160 acres of property adjacent to the dwelling that is owned by the MONTAGUE'S. Members of the O.P.P. Emergency Response Team searched the property with negative results.

**Affidavit of Dwain Hill at paragraph 37.**

- 8. As a result of the large number of outstanding firearms not located during the execution of the initial search warrant at the Montague residence, Mr. Montague was held in custody to show cause. A bail hearing was commenced on the 15th of September 2004 in Dryden Ontario with Mr. Montague representing himself. During the proceedings, it was mutually agreed that the Mr. Montague needed legal representation and as a result the Presiding Justice decided that the bail hearing would be treated as if it hadn't proceeded, and set the matter over to Kenora on the

20th of September 2004 for a new bail hearing where Mr. Montague would be represented by legal counsel.

**Affidavit of Dwain Hill at paragraph 40.**

9. The police investigation continued with respect to the outstanding firearms. A second Information to Obtain a Search Warrant was drafted and plans were made to appear before a Justice on the 20th of September to seek a second search warrant.

**Affidavit of Dwain Hill at paragraph 41.**

10. On the 20th of September, an agreement was reached between the Crown Attorney's office and counsel for the Mr. Montague, Mr. Ed. Burlew, where the Mr. Montague would provide information to the police with how to access the hidden room if they were in possession of a Search Warrant. In exchange for this information, it was agreed the Mr. Montague would be released from custody the following day if a substantial amount of the outstanding firearms were located. It was also agreed that the Mr. Montague would receive no immunity from prosecution relating to anything the police might find during the search of the residence.

**Affidavit of Dwain Hill at paragraph 42.**

11. Police also discovered explosive materials in the room: a partial roll of detonator cord, nine (9) electrical detonators and five (5) non-electrical detonators (safety fuses). These items were stored on the same shelving unit as a large amount of gunpowder.

**Affidavit of Dwain Hill at paragraph 45.**

12. A video was seized from the kitchen table of the Mr. Montague's residence entitled "Firearms Seminar 01 May 04". This video appears to be a recording of a series of speakers at a Firearms Seminar that was held at the Saskatoon Inn in Saskatoon on the 01st of May 2004 and hosted by C.U.F.O.A. A review of the tape shows that the Mr. Montague was one of the presenters recorded. At one point during his presentation, he removed his suit jacket to reveal what appears to be a shoulder holster with the gun pouch portion underneath his left arm. He makes a remark to those assembled about anyone feeling uncomfortable with him exercising his right to keep and bear arms to sit down.

**Affidavit of Dwain Hill at paragraph 46.**

13. The second warrant was executed and the significant findings are as follows:

- a. Entrance to the hidden room was gained exactly as described to the police by the Mr. Montague. This involved using a nail that was stored above the wall and inserting it in a knothole in the paneling making contact with a locking mechanism. At the same time, pressure was applied to an area of the paneling, which caused a concealed door to open. Due to officer safety concerns, entry was gained only after the Emergency Disposal Unit conducted investigations to ensure that the room was not booby-trapped to cause damage if entry was attempted. This investigation involved cutting a

hole in the wall to insert mirrors to look for any wiring that may be present in and near the mechanism designed to gain entry.

- b. Once they were satisfied that no danger existed, police gained entry to the room as described above. The police discovered a room literally filled with firearms of all types (to be described in more detail later), large amounts of ammunition, prohibited devices, and explosive materials (detonator wire, electrical and non electrical detonators), and other items they believe are consistent with the Mr. Montague being in possession of weapons dangerous to the public peace.
- c. Of the 46 outstanding restricted/prohibited/non-restricted firearms registered to William Bruce Montague; Donna Jeanne Montague, or Monty's Gunsmithing, 39 were recovered, leaving 7 firearms that have still not been located. All of the firearms registered to Donna Montague have been recovered.
- d. The outstanding weapons registered to William Bruce Montague or Monty's Gunsmithing include:
  - i. Smith and Wesson Model 10 Handgun, .38 special. (Restricted) Serial # ACP6820
  - ii. US Rifle, Model M1 Semi-Automatic, (Non-Restricted) Serial #1757350
  - iii. US Rifle, Model M1 Semi-Automatic, (Non-Restricted) Serial #2133701
  - iv. Browning, Model BAR MARK II Safari (FN) Semi-Automatic Rifle (Non-Restricted) Serial #311NN18128

v. Beretta, Model MI Garand, Semi-Automatic Rifle (Non-Restricted)

Serial # PB1515

vi. Beretta, Model MI Garand, Semi-Automatic Rifle (Non-Restricted)

Serial # PB3343

vii. Beretta, Model MI Garand, Semi-Automatic Rifle (Non-Restricted)

Serial # PB8328

e. In addition to the firearms recovered that were listed on the affidavit of Richard DVORSKI, police seized another 116 firearms bringing the total number of firearms seized during the second warrant to 148 and the total number of firearms seized during the execution of both warrants to 200.

f. The examination of these firearms is continuing, but of significance in the police seizure is the following:

i. A Colt ARI5 Semi-Automatic .223 caliber Assault type rifle was located just inside the entrance to the hidden room. The firearm had a prohibited magazine containing 30 live rounds of ammunition inserted in the magazine well. It was equipped with what appears to be a homemade silencer as well as a barrel mounted laser sight. There were over 10,000 (ten thousand) rounds of .223-caliber ammunition seized from the hidden room. (Note: This firearm was one of the firearms registered to the Mr. Montague William Bruce Montague). A field test has revealed that this firearm may have been converted to fully automatic but expert examination is necessary to confirm this. The firearm is a restricted firearm but if it has been converted to fully



automatic it is a prohibited firearm. Located with this firearm were 5(five) additional prohibited magazines, two of which were loaded with loaded with 30(thirty) rounds of live ammunition and the other three were loaded with 20(twenty) rounds of live ammunition.

- ii. Also near the entrance to the hidden room, police located a shoulder holster containing a .9 mm semi-automatic handgun. This is a restricted firearm. The firearm had a prohibited magazine inserted in the magazine well containing 15(fifteen) live rounds of .9 mm ammunition. There was also a loaded round in the chamber of the weapon. In addition to this, there was a pouch on the holster that contained 2 (two) further prohibited magazines that each contained 14(fourteen) live rounds of .9mm ammunition. This firearm was not registered to the Mr. Montague. In the hidden room, police also found approximately 5,000 (five thousand) 9mm rounds of ammunition including 60 (sixty) hollow points.
- iii. On a shelf in the hidden room, police discovered an UZI pistol, .45 caliber submachine gun. The serial number to this firearm has been cut out. This is a prohibited firearm. Police have reason to believe this weapon may have been registered to a previous business operated by the Mr. Montague in Southern Ontario but investigations to establish this are continuing.

- iv. Also on a shelf in the hidden room, police discovered a STEN Mark 2 submachine gun with an overcapacity magazine inserted in it (unloaded). This is a prohibited firearm.
- v. Also on a shelf in the hidden room, police discovered a Luger 9mm AT-9 semi automatic rifle with the serial number ground off. This is a prohibited firearm.
- vi. Also on a shelf in the hidden room, police discovered a Ruger.22 caliber semi automatic handgun with a homemade receiver and a barrel equipped with a silencer. The frame in this weapon is believed associated to the lone receiver turned over to police by the Mr. Montague after the execution of the search warrants and listed as exhibit 340 on the exhibit list.
- vii. Police also discovered a sawed off Remington 12 gauge shotgun with the barrel length altered (sawed off) to make it a prohibited firearm. This firearm was stored with ammunition readily accessible.
- viii. Police discovered approximately 80 (eighty) prohibited devices in total, consisting of overcapacity magazines and some silencers.
- ix. Police discovered a head mounted set of night vision goggles in the hidden room.
- x. During the execution of the search warrant at the Montague residence on the 20th and 21<sup>st</sup> of September 2004, a quantity of videos and printed literature was seized from inside the hidden room. They were

initially placed in two boxes and were numbered as exhibits 285 and 285A.

**Affidavit of Dwain Hill at paragraph 43.**

14. Constable Fraser and Detective Sergeant Meeks reviewed the two boxes and itemized the contents as follows:

Exhibit 285

- a. U.S. Navy Seal Combat Manual
- b. U.S. Army Manual on Camouflage
- c. Army Training Rangers Manual
- d. Long Range Patrol Operations: Reconnaissance, combat, and special operations
- e. .45 Automatic Manual
- f. U.S. Marine Corps Technical Manual
- g. The Modern Rifle Barrel
- h. Manual- Great Silencers of the Past
- i. Black Book Companion - State of Art Improvised Munitions
- j. Flash Powder Cookbook
- k. U.S. Army Improvised Munitions Handbook
- l. Manual- Secret Two Component High Explosive Mixtures improvised shaper charges
- m. Army Manual - Unconventional Warfare Devices and techniques- Incendiaries
- n. Army Manual- Booby Traps

- o. Army Manual – Surveillance
- p. Conversion Manual- Full Auto H&K 94
- q. Suppressors - Volume Two - Ruger 10/22 Integral Suppressor
- r. Conversion Manual- Full Auto for Semi- Automatic Thompson
- s. Manual- Full Auto Conversion for AK 47
- t. Manual - Full Auto Conversion for Ruger Mini 14
- u. Manual - Full Auto Modification for AR 15
- v. Manual (XI) - Full Auto – SKS
- w. Home Workshop Parkerizing
- x. Owners Manual (X4) - SKS, AKS, AK47
- y. Instruction Manual- 5.56 mm semi-automatic rifles
- z. Trapping Guide
- aa. Book - Merck Manual (Medical Book)
- bb. U.S. Army Ranger Handbook
- cc. Uzi SMG Operation Manual
- dd. Book on Natural Remedies
- ee. Wilderness Harvest
- ff. Manual for Model AT -9 Semi-Automatic Handgun
- gg. Lyman Reloading Guide
- hh. Book - Rifles and Riflemen at the Battle of Kings Mountain
- ii. FN - F.A.L. Auto Rifle (7.62 mm)
- jj. Manual - How to Prepare and Conduct Military Training
- kk. Army Manual- Combat Training of the individual soldier and patrolling

- ll. Instruction Pamphlet - Combat Training of the individual soldier and patrolling
- mm. Marihuana Growers Guide (with parts highlighted)
- nn. Cannabis Culture Magazine (Feb-Mar 2004)
- oo. Maadi-Griffin - .50 Cal Rifle Plans with Order Form dated 13 Dec 1997
- pp. Manual- Construction of a Simplified Wood Gas Generator
- qq. Manual- The Poor Mans James Bond Volume I (inside it was an index  
apparently created on separate paper)
- rr. Granddads Wonderful Book of Chemistry
- ss. Reborn in Canada - Personal Privacy through a new Identity (1991)
- tt. Book on Gunsmithing
- uu. Book - Get Even: The Complete Book of Dirty Tricks
- vv. The Best Book Catalog in the World (with six supplements)
- ww. Magazine - Survivor (1993)
- xx. Professional Electronic Equipment Catalog
- yy. Magazine - Paladin Press - Home Workshop Guns - ARI5/M16 for defence  
and resistance
- zz. Manual on Smoke Generation
- aaa. Manual on Explosives and Propellants from Commonly Available Products  
(with areas highlighted)
- bbb. Magazine - Paladin Press - Weapons and Warfare - Paladin zeros in on  
the arts of sniping, ambush, and suppressing firearms
- ccc. Delta Press Catalogue - Laser Sight and Night Vision Devices

- ddd. Butokukai Catalogue (list of publications including silencers, explosives, harassment, full auto, new Ld./personal freedom)
- eee. Automatic Conversion Manual for the Remington 1100. This had a hand written yellow note on it stating: *Bruce, Let me know how these work out if you try it - Also, stay clear of the "Pole Man".* It was signed "Rick"
- fff. AR 15 to M-16 Conversion Book
- ggg. Mini 14 Exotic Weapons System Manual
- hhh. Mini 14 Select-Fire conversion
- iii. Micro 421 Machine Pistol- Semi-Auto Modification Manual
- jjj. Manual- Select Fire 10/22 - The TEK Full Auto Conversion
- kkk. Select Fire Ak47 - Conversion Manual

*Exhibit 285A*

- a. Manual- Full Auto Conversion of the Ruger 10-22 Semi
- b. Automatic Carbine
- c. U.S. Army manual on Silencers
- d. Various loose papers including:
  - i. Hand drawn plans depicting a pen gun dated Oct 7, 1994
  - ii. Two Computer Printouts (older - perforated edges) re: Anarchy for Fun and Profit - One had a statement on it Note: *"To any Law Enforcement Agency - FUCK OFF! This file is intended to promote general havoc and anarchy and you can't do a god damn thing about it pigs"* and the other had a statement on it "Note: *To Law Enforcement Type People:*

*This file is intended to promote general havoc and anarchy and since your going to be the first assholes up against the wall- there isn't a damn thing you can do about it pigs*

- iii. Computer Printouts (older - perforated edges) addressing subjects: detonators, incendiaries, smoke formulas, rocket fuels, flamers, tear gas and related items, Thermite Incendiaries and formulas, vomiting gas, mines, shoddy explosives, file directory of Lib Nasties.
  
- e. Receipts, material lists, plans for building
- f. Magazine Article on Reflex Suppressors
- g. Magazine Article on .45 ACP
- h. Magazine Article on Phoenix Shotgun
- i. Video - Outdoors Survival Techniques
- j. Video - Ultimate Sniper "The Video"
- k. Video - Dillon Machine Gun Magic
- l. Manual- Wilderness Survival
- m. Manual- Homemade C-4- A recipe for survival (areas of this are highlighted)
- n. The Anarchist Handbook - Topics: Improvised Blasting, Pipe
- o. Hand Grenade, Shotgun Grenade Launcher, Improvised Claymore
- p. Mine, Plastic Explosives, Rocket Launchers
- q. U.S. Army Manual on Booby Traps
- r. Manual- Home Workshop Explosives (hand written comment excellent book on it) (areas of manual are highlighted)

- s. Manual- Sten submachine Gun
- t. U.S. Army manual on unconventional warfare devices and techniques - incendiaries (hand written comment "good")
- u. US. Army manual on Unconventional warfare devices and techniques - References (hand written comment "poor")
- v. U.S. Army manual on sniper training and employment
- w. Book - Total Resistance: Swiss Army guide to Guerilla Warfare and Underground Operator
- x. Combat Survival Course Notes
- y. U.S. Army manual- Biological and chemical defense Manual
- z. Hand drawn plans re his "shooting house"
- aa. Manual- Night Fighters Handbook
- bb. Manual- Long Range Surveillance

**Affidavit of Dwain Hill at paragraph 44.**

15. The Montagues have a lawyer for the criminal matters, Calvin Martin, who has been served with the materials on the preservation motion in case they decided to retain him on the civil matter.

**Affidavit of David Cowieson paragraph 1 and a letter sent with the materials.**

16. Mr. Martin was under the belief he was going to represent them according to his telephone conversation with counsel.

**Affidavit of John MacNeil of 26 September 2005 at paragraph 4 and Exhibit C.**



17. Mr. Martin appears to have spoken with the Montagues as he stated times and a place they could be served.

**Affidavit of John MacNeil of 26 September 2005 at paragraph 4 and Exhibit C**

18. Mr. Martin refused to make other arrangements for service as they "are not going to make anything easy".

**Affidavit of John MacNeil of 26 September 2005 at paragraph 4 and Exhibit C**

19. The times and place were all at night between 6 and 9 pm at the Montagues home which is in a rural area.

**Affidavit of John MacNeil of 26 September 2005 at paragraphs 3 and 4 and Exhibits 2 and 3.**

20. Mr. Montague has contacted counsel and said that Mr. Martin does not represent him in this matter and refers to counsel for the Attorney General as the person who is stealing his property.

**Affidavit of John MacNeil of 22 September 2005 at paragraphs 2-5**

21. Mr. Montague as well appears to know about the court proceeding given the content of his message to counsel.

**Affidavit of John MacNeil of 22 September 2005 at paragraphs 2-5**

22. The motion material on the preservation order was mailed to Montagues on September 23, 2005. The address used was the address from their real estate transfer documents as address for service, which is the same as the address for service on the corporation.

**Affidavit of John MacNeil of 26 September 2005 at paragraphs 5-7**

**PART 2 - LAW**

23. Originating process needs to be served personally.

**Rules of Civil Procedure R. 16.01 (1)**

24. A motion unlike originating process does not need to be served personally.

**Rules of Civil Procedure R. 16.01(3)**

25. The Court may order "where it appears impractical for any reason to effect prompt service" may make an order for substituted service.

**Rules of Civil Procedure R. 16.04(1)**

**Part 3 – Argument**

26. It is respectfully submitted that, it is inappropriate to send a civil process server into a potential dangerous situation when even the police thought it would be best to arrest Mr. Montague in a public place.

27. It is respectfully submitted that, under the specific circumstances of this case that although the Order preserving property was ordered to be served personally that it be allowed to be served by regular mail and be deemed to have been served.

28. It is respectfully submitted that, originating process be order served by substituted service specifically ordinary mail and be deemed to be served five days after mailed.

**The Orders**

29. It is respectfully submitted that the Respondents be deemed to have been properly served with Motion Record (containing the Notice of Motion) and Factum of the Applicant for the Motion for a Preservation Order.

30. It is respectfully submitted that, this Court Order that the originating process be served on the Respondents by sending it by ordinary post to P.O. Box 393, Dryden, Ontario P8N 2Z1 and that service be deemed to have been made five days after being sent.

All of which is respectfully submitted,

A handwritten signature in cursive script that reads "James McKeachie".

James McKeachie  
Senior Counsel  
Civil Remedies for Illicit Activities Office  
Legal Services Division  
Ministry of the Attorney General