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FEDERAL COURT - TRIAL DIVISION

BETWEEN:

SAEED RANA

APPLICANT

AND:

ATTORNEY GENERAL OF CANADA

RESPONDENT

NOTICE OF APPLICATION FOR JUDICIAL REVIEW

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Vancouver, British Columbia.

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 a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules*, SOR/98-106, and serve it on the applicant's solicitor, or where the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Court Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone: 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date:

Issued by: _____

Address of local office: Federal Court of Canada
Pacific Centre
PO Box 10065
701 West Georgia St.
Vancouver, B.C. V7Y 1B6

TO:

Attorney General of Canada
284 Wellington Street
Ottawa, ON K1A 0H8

c/o Department of Justice
Vancouver Regional Office
900 - 840 Howe Street
Vancouver, B.C. V6Z 2S9

Tel: 604-666-2061

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APPLICATION

This is an application for judicial review in respect of the disciplinary hearing and conviction by an Independent Chairperson [ICP] of the Kent Institution Disciplinary Tribunal, under s. 40(i) of the *Corrections and Conditional Release Act*, SC 1992, c20 [CCRA], on August 30, 2022.

The applicant makes application for:

1. an order in the nature of *certiorari* to quash the decision of the ICP;
2. an order in the nature of *mandamus* compelling the Correctional Service of Canada [CSC] to delete all information regarding the related allegations, charges and conviction from all files in the applicant's name held by the CSC and any other agency that may have received such information from CSC, including the National Parole Board;
3. the costs of this application; and
4. such other relief as this Honourable Court may deem just.

The grounds for the application are:

Background

1. The applicant was charged under s.40(i) of the *CCRA* for possession of contraband, after a search of his cell on May 26, 2022 revealed a cell phone and two charging cables hidden in a wall.
2. The hearing was held in Serious Disciplinary Court by video at Kent Institution on August 30, 2022. The applicant pleaded not guilty.
3. The evidence presented by Kent Institution was that a guard located a cell phone and two cell phone cables inside of a wall in the applicant's cell, after the guard removed two suicide prevention hooks with a screwdriver. No tools were found in the applicant's cell.
4. In finding the applicant guilty, the ICP relied on evidence from Kent Institution that the applicant had allegedly possessed contraband approximately two years earlier, although the applicant was never charged with any offence at that time. The ICP imposed a fine of \$45 dollars.

Grounds of Review

5. The ICP breached procedural fairness by admitting and relying on a prior, unproven allegation for possessing contraband during the hearing of this charge.
6. The ICP further breached procedural fairness by relying on the prior allegation without the applicant having first received the materials explaining this allegation, contrary to s.27 and

s.43(1) of the *CCRA*, and s.25(1) and s.31(1) of the *Corrections and Conditional Release Regulations* (SOR/92-620).

7. The decision was unreasonable, as the ICP erred in relying on propensity reasoning to convict the applicant.
8. The decision was additionally unreasonable as the ICP failed to articulate or justify how the guilt of the applicant was the only rational inference that could be drawn from the evidence, given the standard of proof [*CCRA* s.43(3)].

This application will be supported by the following material:

1. Affidavit of Rana Saeed, the applicant.

Pursuant to s. 317 of the *Federal Courts Rules*, the applicant requests the Kent Institution Disciplinary Tribunal send a certified copy of the following material that is not in the possession of the applicant but is in the possession of the tribunal to the applicant and to the Registry:

1. The audio recording of the hearing from August 30, 2022;
2. A copy of any documents that were considered by the ICP in relation to this charge; and
3. The ICP's written decision regarding the charge.

DATED: September 20, 2022



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