

File: T-1006-23

FEDERAL COURT

Between:
RICHARD RYAN
Applicant

and

10#7

COUR FÉDÉRALE FEDERAL COURT	
D É P O S	M A I M A Y 1 1 2 0 2 3
É CATHERINE ZAMALLOA-TREMBLAY	
MONTRÉAL, QC	1

ATTORNEY GENERAL OF CANADA

Respondent

NOTICE OF APPLICATION

Sections 18 and 18.1 of the *Federal Courts Act* (R.S.C., 1985, c. F-7)
and
Section 300 and following of the *Federal Courts Rules* (SOR/98-106)

Deposited by:

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ATTORNEY GENERAL OF CANADA
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FORM 301 Rule 301

Notice of Application

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

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 (*place where Federal Court of Appeal (or Federal Court) ordinarily sits*).

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 file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts 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.

MAY 11 2023

Issued by:


Catherine Zamalloa-Tremblay
AGENT DU GREFFE
REGISTRY OFFICER

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TO: **ATTORNEY GENERAL OF CANADA**
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Application

This is an application for judicial review in respect of a decision by the Parole Board of Canada (Appeal Division) of April 13, 2023 (communicated to the Applicant on April 14, 2023), upholding a decision of the Parole Board of Canada of November 1, 2022 to deny authorizing the Applicant an Unescorted Temporary Absence.

The applicant makes application, by virtue of sections 18 and 18.1 of the *Federal Courts Act* (R.S.C., 1985, c. F-7), for the following **relief**:

Set aside the decision of the Parole Board of Canada, and:

ORDER the Parole Board of Canada to provide an Unescorted Temporary Absence to the Applicant;

or

REFER the matter back to the Parole Board of Canada for determination in accordance with such directions as it considers to be appropriate, notably that it consider and assess whether the Applicant's sentence has become grossly disproportionate.

The **grounds** for the application are:

THAT the Parole Board of Canada refused to exercise its jurisdiction in its assessment of the Applicant's request for an Unescorted Temporary Absence ("UTA"). Specifically, the Parole Board refused to exercise its jurisdiction in assessing whether the Applicant's sentence has become grossly disproportionate. The Applicant is currently serving an indeterminate sentence in a federal penitentiary.

THAT the Parole Board of Canada erred in law in making its decision, notably by not adhering to the Applicant's rights under section 12 of the *Canadian Charter of Rights and Freedoms* to not be sentenced to punishment that is cruel and unusual.

THAT the Parole Board of Canada failed to observe a principle of natural justice, procedural fairness or other procedure that it was required by law to observe, notably by rendering inconsistent and incoherent judgments, and by doing so without ensuring procedural fairness.

This application will be supported by the following material:

1. An affidavit by the Applicant;
2. The relevant decisions of the Parole Board of Canada;
3. Relevant jurisprudence.

May 11, 2023



Me Robert Israel

Me Jessica Lalancette

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ATTORNEYS FOR THE APPLICANT

SOR/2021-151, s. 22

No. Cour

FEDERAL COURT

Cour
District

Montreal

RICHARD RYAN

APPLICANT

and

ATTORNEY GENERAL OF CANADA

RESPONDENT

NOTICE OF APPLICATION

ORIGINAL

BATTISTA TURCOT ISRAEL s.e.n.c.

AVOCATS - ATTORNEYS

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