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I S S U E D	FEDERAL COURT COUR FÉDÉRALE
	July 29, 2022 29 juillet 2022
Jasmine Lajoie	
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Court File No. T-1576-22

FEDERAL COURT

BETWEEN:

CATHERINE BEDARD, ROBERT BENISON, PHILIPPE BERTRAND, NICOLE BONNEVILLE, OLIVIER BROUILLARD, KATHERYN BUTLER, YANNICK COULOMBE, ERIC DEMERS, STEPHANIE ANN DEWITT, AARON GEARY, WARREN HUDYM, ERIC HUMBER, JILL JAGDEEP, TOM KALIS, DANIEL KOHL, TARA MCDONALD, NICOLAS MORDEN, TOM OXNER, EDWARD PRETO, MÉLANIE ROY, RANJIT SINGH SEEHRA, JAMES SMITH, JACQUELINE SPENCE, LICIO SOARES, BRUCE TROTZUK, HARLAND VENEMA

Applicants

- and -

**ROYAL CANADIAN MOUNTED POLICE EXTERNAL REVIEW COMMITTEE
ATTORNEY GENERAL OF CANADA**

Respondent

APPLICATION UNDER S. 18.1 OF THE *FEDERAL COURTS ACT*

NOTICE OF APPLICATION

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicants. The relief claimed by the applicants 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 applicants request that this application be heard at **Ottawa, Ontario**.

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* and serve

it on the applicants' solicitor, or where applicants are self-represented, on the applicants, 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.

Date: July 29, 2022

Issued by _____

Address of local office:
Thomas D'Arcy McGee Building
90 Sparks Street
Ottawa, ON K1A 0H9

TO: Nathalie G. Drouin
Deputy Attorney General of Canada
Department of Justice
Civil Litigation Department
50 O'Connor Street, Suite 500
Ottawa, ON K1A 0H8

AND TO: Brenda Lucki
Commissioner
Royal Canadian Mounted Police
1200 Vanier Parkway
Ottawa, ON, K1A 0R2

APPLICATION

This is an Application for an Order of *mandamus* compelling the Royal Canadian Mounted Police's External Review Committee ("ERC") to render their recommendations in the Applicants' appeal files, pursuant to the *Royal Canadian Mounted Police Act*, RSC 1985 c R-10 (the "*RCMP Act*") and the *Commissioner's Standing Orders (Grievances and Appeals)*, SOR/2014-289.

THE APPLICANTS SEEK:

1. an Order of *mandamus* compelling the ERC members or ERC Chair members exercising delegated authority of the Committee Chairperson to render their recommendations in the Applicants' appeal files, as outlined in this Application, no later than thirty (30) calendar days from the date of this Court's Order;
2. an Order of *mandamus* compelling the ERC to publish and meet its service standards pursuant to subsection 28.1 of the *Royal Canadian Mounted Police Act* (the "*RCMP Act*").
3. the costs of this Application; and
4. such further and other relief as this Honourable Court deems just.

THE GROUNDS OF THE APPLICATION ARE:

1. The Applicants are all current members of the Royal Canadian Mounted Police ("RCMP") who have active appeal files with the ERC. They are all waiting for the ERC to issue recommendations in their matters.
2. This Application concerns the timeliness of the ERC's appeal review process, and more specifically, the timeliness of issuing its recommendations.

The External Review Committee

3. The ERC is an administrative tribunal that conducts impartial case reviews and issues findings and recommendations for appeal decisions in certain RCMP employment and labour relations matters.
4. Section 45.15 of the *RCMP Act* states that before considering an appeal, the appeal shall be transmitted to the ERC by the RCMP's Commissioner if it relates to any of the following conduct measures, or to any finding that resulted in its imposition of a:
 - a. Financial penalty of more than one day of the member's pay;
 - b. Demotion;
 - c. Direction to resign;
 - d. Recommendation for dismissal; or,
 - e. Dismissal.
5. Further, pursuant to s. 17 of the *Royal Canadian Mounted Police Regulations*, before considering an appeal, the Adjudicator seized of the appeal must refer the following types of appeals to the ERC:
 - a. An appeal by a complainant of a written decision referred to in subsection 6(1) and paragraph 6(2)(b) of the *Commissioner's Standing Orders (Investigation and Resolution of Harassment Complaints)*;
 - b. An appeal of a written decision revoking the appointment of a member under section 9.2 of the *RCMP Act*;
 - c. An appeal of a written decision discharging or demoting a member under paragraph 20.2(1)(e) of the *RCMP Act*;

- d. An appeal of a written decision discharging or demoting a member under paragraph 20.2(1)(g) of the *RCMP Act* on the following grounds:
 - i. Disability, as defined in the *Canadian Human Rights Act*;
 - ii. Being absent from duty without authorization or having left an assigned duty without authorization;
 - iii. Conflict of interest; and,
 - iv. An appeal of a written decision ordering stoppage of a member's pay and allowances under paragraph 22(2)(b) of the *RCMP Act*.

Procedure for ERC files

6. The Office of the Coordination of Grievances and Appeals ("OCGA"), namely the office responsible for the coordination of administrative matters relating to RCMP grievance and appeals ("Referable Matters"), transmits referable matters to the ERC.
7. The OCGA transmits Referable Matters to the ERC once the grievance or appeal has been perfected. Once the ERC receives Referable Matters, it issues recommendations then sends same to the Commissioner for a decision.
8. Subsection 28.1 of the *RCMP Act* provides that:

The Committee [the ERC] shall establish, and make public, service standards respecting the time limits within which it is to deal with grievances and appeal cases that are referred to it and specifying the circumstances under which those time limits do not apply or the circumstances under which they may be extended [emphasis added].

The ERC has not met its obligation to publish, or follow, its own service standards.

The Applicants' files

9. As stated above, all of the Applicants' appeals have been fully perfected: their submissions have been filed, the Respondent has filed its responding submissions, the appeal files have been transmitted to the ERC, and are now waiting on a decision.
10. The Applicants' appeals pertain to important matters, such as Code of Conduct issues, discharges, and workplace harassment.
11. The Applicants have been waiting for recommendations to be rendered from a range of approximately twelve months to five and a half years since their appeal matters were transmitted to the ERC. These delays are unreasonable.
12. The Applicants made demands for performance to the ERC, that the ERC issue its recommendations. To date, the ERC has not issued any recommendations on the Applicants' files.
13. Paragraphs 11 and 12 of this Application are outlined in more detail in the following table:

Applicant	OCGA/ERC File Number	Date Record Ready to be Sent or Sent to ERC by OCGA
BEDARD, Catherine	20173351219/NC-2018-041	10/3/2018
BENISON, Robert	2019335310/C-2020-01-10	3/26/2020
BENISON, Robert	2019335861/C-2020-032	8/20/2020
BERTRAND, PHILIPPE	2016336501/NC-2018-052	1/24/2019
BONNEVILLE, Nicole	2016335552/C-2017-001	4/3/2017
BONNEVILLE, Nicole	2016335553/C-2017-002	4/3/2017
BROUILLARD, Olivier	2020335116/C 2021-024	6/15/2021
BUTLER, Katheryn	39029171244/ 2400-20-001	12/6/2019

COULOMBE, Yannick	2019335875/C-2021-001	2/19/2021
DEMERS, Eric	2019335610/ C-2020-030	8/14/2019
DEWITT, Stephanie Ann	20173355182/C-2017-012	6/30/2017
GEARY, Aaron	39028-57779-2/2400-16-008	11/10/2016
HUDYM, Warren	20173351259 / ERC: NC-2018-056	2/12/2019
HUDYM, Warren	OCGA 20173351195 / ERC: NC-2018-040	10/4/2018
HUDYM, Warren	OCGA 20173351216 / ERC: NC-2018-054	2/12/2019
HUDYM, Warren	OCGA 20173351260 / ERC: NC-2018-057	2/12/2019
HUDYM, Warren	OCGA 20173351233 / ERC: NC-2018-055	2/12/2019
HUMBER, Eric	2018335389/NC-2018-053	1/24/2019
JAGDEEP, Jill	2020335416/NC-2020-56	11/2/2020
KALIS, Tom	201833553/C-2018-008	4/19/2018
KOHL, Daniel	2019335821/C-2021-004	4/21/2021
McDONALD, Tara	2019335721/NC-2020-003	6/5/2020
MORDEN, Nicolas	20173351196/C-2017-022	2/9/2018
OXNER, Tom	2020335214/NC-2020-054	1/20/2021
OXNER, Tom	2020335228/NC-2020-055	1/20/2021
PRETO, Edward	2020335746/C2020-026	2/8/2021
ROY, Mélanie	2020335421/C-2020-035	2/26/2021
SEEHRA, Ranjit Singh	2019335604/C-2020-018	11/5/2020
SMITH, James	201933549/NC-2029-022	10/2/2019
SOARES, Licio	2019335285/C-2019-014	10/3/2019
SPENCE, Jacqueline	202033566/NC-2020-062	1/18/2021
SPENCE, Jacqueline	202033565/NC-2020-061	2/19/2021
TROTZUK, Bruce	2020335935/C-2021-014	8/24/2021
TURNER, William	201933533/C-2020-007	12/23/2019
VENEMA, Harland	2020335566/C-2020-034	2/25/2021

14. There is a public legal duty on the part of the ERC to render their recommendations.
15. The Applicants have no other remedy to compel the ERC to render their recommendations.

The Applicants are not responsible for the delays, and the ERC has not provided a satisfactory explanation for the delays.
16. Sections 18 and 18.1 of the *Federal Courts Act*, RSC 1985, c F-7.
17. Sections 25, 26, 27(2), 27(3), 28, 28.1, 29, 45.1 of the *RCMP Act*, RSC 1985, c R-10.
18. The *Commissioner's Standing Orders (Grievances and Appeals)*, SOR/2014-289, the *RCMP External Review Committee Rules of Practice and Procedure*, SOR/88-313, and the *Royal Canadian Mounted Police Regulations*, 2014, SOR/2014-281.
19. Such further and other grounds as counsel may advise and this Honourable Court permits.

THE APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

1. The affidavit of Michelle Boutin; and
2. Such other material as counsel may advise and this Honourable Court permits.

The Applicants request that the Respondent send a certified copy of the material that is in its possession and relevant to the decision under review to the Applicants and to the Registry, pursuant to Rules 317 and 318 of the *Federal Courts Rules*.

Date: July 29, 2022

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