

APPLICATION FOR A JUDICIAL REVIEW

(Court File No.)

FEDERAL COURT

BETWEEN:

Philip Dickinson
Applicant

and

Attorney General of Canada
Respondent

**APPLICATION UNDER SECTION 18.1 OF THE FEDERAL
COURTS ACT, RULE 301**

(Court seal)

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.

June 1, 2023

Issued by: *(Registry Officer)*

Address of local office:

30, rue McGill, Montréal (Québec), H2Y 3Z7

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

Secretariat on Responsible Conduct of Research, 160 Elgin Street, 9th Floor, Ottawa, ON, K1A 0W9

Canadian Institutes of Health Research (CIHR), 160 Elgin Street, 10th Floor Address Locator 4809A, Ottawa, ON, K1A 0W9

Natural Sciences and Engineering Research Council of Canada (NSERC), 125 Zaida Eddy Private, 2nd floor Ottawa ON, K1R 0E3

Social Sciences and Humanities Research Council (SSHRC), 125 Zaida Eddy Private, 2nd Floor Ottawa, ON, K1R 0E3

McGill University, 313 - 845 Sherbrooke Street West, Montreal, Québec, H3A 0G4

Application

This is an application for judicial review in respect of:

Secretariat on Responsible Conduct of Research

On May 3, 2023, I received an email that included the decision rendered on my complaint at the *Secretariat on Responsible Conduct of Research* (SRCR) against McGill University, for Institutional non-compliance in their investigation of research misconduct regarding the plagiarism of my doctoral thesis and the diverting of funds destined for my work to unrelated projects, in which it was dismissed (CIHR File# C-202021-ORG2). No reasons were provided.

Note: The file was also listed as SRCR# S-202021-ORG in earlier communication.

This decision means there is no further recourse at the Institutional level to address these serious allegations. I have not been provided any rationale for the decision by the SRCR, nor previously by the University.

Since the monies that were intended for my own research will have been re-directed to other projects the decision leaves me with no benefit from my many years of work. Lacking a proper administrative review that was fair, reasonable and without bias the current decision will have serious consequences on my career prospects, my earnings and my prestige within the field.

I became aware of this decision on the same day, May 3, 2023.

The applicant makes application for:

Due to egregious failings by the SRCR in the handling of my case, along with their inability to complete the review within any reasonable timeframe, it is difficult to conceive of anything but continued delays and an equally inadequate analysis if the matter was sent back to the Tribunal. As a consequence, I request the court make a direct determination on the matters that were under review by the Tribunal.

The grounds for the application are:

I was a doctoral student at McGill University during which I wrote an operating grant application based on my thesis work. This is quite atypical, and since doctoral students can not apply for this level of funding my work was submitted through my then graduate supervisor. This followed a number of iterations over a period of many years, since only ~15% of researchers are funded in any one competition.

Acknowledgement of my contribution was always included in the text and I was likewise included as a co-applicant. Ultimately, in the final submission my former supervisor

plagiarized my work by removing the acknowledgement and removed me as a co-applicant. After being awarded close to \$500,000 of funding, he re-directed the funding away from my project to another professor and other work. I was subsequently excluded from participating in this work.

I submitted a complaint to be investigated by the Research Integrity Office (RIO) at McGill University on March 18, 2020. During this process the Respondents were provided all documentation that I submitted. By contrast, I was not given access to any documents that the Respondents provided in their defence, and consequently had no recourse to address inconsistencies or factual errors that may have been presented. Further the investigative committee met with the Respondents, but never met, or discussed the case, with me throughout the process. The outcome of this investigation was conveyed to me on October 27, 2020.

I was not provided any details regarding the decision, however, due to inconsistencies in how the investigation was conducted in relation to the guidelines the University was required to follow, I submitted a complaint of Institutional non-compliance on the conduct of research integrity investigations with the *Secretariat on Responsible Conduct of Research* on December 22, 2020.

The handling of my complaint by the *Secretariat on Responsible Conduct of Research* has been fraught with persistent issues.

With the decision coming almost two and half years after my submission the delay is simply unreasonable. Throughout the process dates upon which various milestones would be achieved were presented, yet none were respected, often extending many months beyond the indicated date. I repeatedly requested information about the protocol and timeline that was being followed. I was consistently informed I would soon receive a response, but no information was ever provided.

The original external reviewer was only removed when I pointed out her connection through social media to the McGill University spokesperson. My concerns about the final external reviewer were rejected by the SRCR, in part to avoid “*further delays*”.

The Tribunal provided me with a preliminary report from the external reviewer that contained multiple errors in fact and the omission of details necessary for a coherent examination of the file. Further the external reviewer appeared to rely almost exclusively on the statements made by the institution while disregarding my evidence.

The terms by which aspects of the review were handled changed, seemingly in response to challenges I presented in relation to the process or preliminary results. For example, after reviewing and providing feedback on the preliminary report, the SRCR informed me I would receive the final report within a month, along with all supporting materials used by the external reviewer, yet I never received any report and only learned of the decision with no explanation 8 months later.

In all communication with the SRCR I was always addressed directly by the Tribunal except in the final decision letter, where I was conspicuously excluded.

To summarize, the process lacked procedural fairness. I was not provided with the rationale for the final decision. The delays are wholly unreasonable and damaging to my career. The manner in which the investigation took place was changed throughout the process, while files and results were not shared with me as promised.

Notably after addressing multiple issues in the preliminary report, and subsequently being assured I would receive detailed explanations when in fact no report was forthcoming, I have no way of knowing whether or how my comments were considered or implemented. Further, since I was never provided with the documents submitted by the Respondents at the Institutional level, yet they received all my documents, I have no way of assessing the veracity of any statements upon which any decision may have been based.

There is a question of bias that was not addressed, justified by the SRCR in part to avoid further delays. The process and timelines were never provided to me, despite repeated requests. The tribunal seemingly made the rules as it went along, ostensibly to allow a preferred outcome and elude accountability. The final decision provided no rationale or justification, again presumably to avoid further scrutiny.

By not providing any transparency, intelligibility nor justification to any of their decisions, the results of the Tribunal review cannot be considered reasonable and cannot be accepted as stands.

This application will be supported by the following material:

Applicant and Respondent affidavits, documents in possession of the Tribunal, CIHR funding opportunity descriptions, other materials that emerge through the application process.

The applicant requests the *Secretariat on Responsible Conduct of Research* to send a certified copy of the following material that is not in the possession of the applicant but is in the possession of the *Secretariat on Responsible Conduct of Research* to the applicant and to the Registry:

- The complete record of all material and documents in possession of the Tribunal regarding this case, or regarding Philip Dickinson.
- The complete record of all communication between the Tribunal and the Tri-Council funding bodies (CIHR, SSHRC, NSERC) regarding this case, or regarding Philip Dickinson.
- All records, notes, documentation held by the External Reviewer, including all communication regardless of medium or form between the External Reviewer and the SSRC, CIHR, SSHRC and NSERC regarding this case, or regarding Philip Dickinson.

June 1, 2023

A handwritten signature in blue ink, appearing to read 'Philip Dickinson', with a long horizontal flourish extending to the right.

Philip Dickinson, PhD
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SOR/2021-151, s. 22