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FEDERAL COURT COUR FÉDÉRALE	
Nov 15, 2023	
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File No.:
T-2443-23

FEDERAL COURT

BETWEEN:

FREDERICK THOMSON CHRISTIE

Applicant

and

VETERANS REVIEW AND APPEAL BOARD CANADA and
ATTORNEY GENERAL OF CANADA

Respondents

NOTICE OF APPLICATION

TO THE RESPONDENTS:

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 Calgary, Alberta.

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.

Dated: November 15, 2023

Issued by: (*Registry Officer*)
Federal Court
Canadian Occidental Tower
635 Eighth Avenue SW
3rd Floor, P.O. Box 14
Calgary, AB T2P 3M3

TO:

Attorney General of Canada
Department of Justice
Prairie Region
National Litigation Sector
300, 10423 – 101 Street SW
Edmonton, AB T5H 0E7

Attention: Mr. Alexander Brooker

APPLICATION

1. This is an Application for judicial review pursuant to section 18.1 of the *Federal Courts Act*, (RSC 1985, c F-7) in respect of Decision Number 100004861361 (the “**Decision**”) of the Veterans Review and Appeal Board Canada (the “**Board**”), dated June 1, 2023, which was communicated to the Applicant on or about June 13, 2023.

2. In the Decision, the Board dismissed the Applicant’s Application for Reconsideration of its prior decision, dated January 26, 2009, in which the Board denied the Applicant’s request for compensation under section 32 of the *RCMP Superannuation Act* (RSC 1985, c R-11), in accordance with subsection 21(2) of the *Pension Act* (RSC 1985, c P-6).

THE APPLICANT MAKES APPLICATION FOR:

3. An Order:
- a. quashing or setting aside the Decision;
 - b. in the nature of *mandamus*, requiring the Board to grant the Applicant the full compensation claimed by same with respect to the Injury (defined below);
 - c. for costs of this Application; and,
 - d. such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THE APPLICATION ARE:

4. On July 23, 2004, Christie was riding bicycles with his children when he witnessed a group of young males who were drinking and causing a disturbance in a park. Although Christie was not in uniform at the time, he considered it his duty as an off-duty police officer to intervene. As a result, Christie directed his children to go home, and then requested that the group of young males clean up their mess and cease the disturbance. The teenage males refused to comply with Christie’s request, at which time Christie informed them that he would contact the Calgary Police Service. In response, two of the

young males assaulted Christie, knocked him to the ground, struck him upwards of 50 times, and rendered him unconscious (the “**Assault**”).

5. Christie was transported to the emergency department and was hospitalized for six days in a trauma ward with a head injury. Christie was ultimately diagnosed with a “Closed Head Injury, brain contusion (L) facial nerve palsy” (the “**Injury**”).

6. The procedural history of this matter is as follows:

- a. on July 7, 2005, Veterans Affairs Canada (“**VAC**”) denied Christie's claim for disability benefits related to the Injury on the basis that the Injury was not service-related (the “**VAC Decision**”);
- b. Christie sought a review of the VAC Decision, and on June 19, 2007, a Review Panel of the Board upheld the VAC Decision on the basis that the Injury was not service-related (the “**Review Decision**”);
- c. Christie appealed the Review Decision, and on January 26, 2009, an Appeal Panel of the Board upheld the Review Decision on the basis the Injury was not service-related (the “**Appeal Decision**”);
- d. on June 1, 2023, through the Decision, the Board dismissed Christie’s Application for Reconsideration of the Appeal Decision.

7. The Applicant submits that the Board erred:

- a. in law in its application of the *Veterans Review and Appeal Board Act* (SC 1995, c 18) by: (1) failing to correctly apply the mandatory rules of evidence set out in section 39 of same; and (2) failing to correctly apply the mandatory rules of construction set out in section 3 of same.

- b. in law by finding that Christie did not have a statutory duty to intervene pursuant to the *RCMP Superannuation Act* (RSC 1985, c R-11) and/or the *RCMP Regulations* (SOR/88-361) and Code of Conduct therein;
- c. in law and/or fact in finding that the Injury was not service-related; particularly, given:
 - i. Christie's uncontested evidence that, as an active member of the RCMP, he felt he had a duty to intervene after witnessing a group of young men causing a disturbance in a public park;
 - ii. the fact that Christie sent his children home before his intervention, which indicates that he believed there was a risk to them being present during same; and
 - iii. the severity of Christie's injuries, which clearly demonstrate the group of young men posed a danger to the public that justified his intervention;
- d. such further and other errors as counsel may advise and this Honourable Court may permit.

8. The Applicant will rely on the *Federal Courts Act* (RSC 1985, c F-7), the *Veterans Review and Appeal Board Act* (SC 1995, c 18), the *RCMP Superannuation Act* (RSC 1985, c R-11), the *Pension Act* (RSC 1985, c P-6), any amendments to and regulations under those Acts, and the *Federal Courts Rules* (SOR/98-106, as amended) and such further and other grounds as the Applicant may submit and this Honourable Court may permit.

THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

- 9. Decision number 100004861361 of the Board;
- 10. An Affidavit to be sworn by the Applicant;
- 11. The relevant portions of the record before the Board; and,

12. Such further and other information as counsel may advise and this Honourable Court may permit;

13. The Applicant requests that the Board, pursuant to Rule 317 of the *Federal Courts Rules* SOR/98-206, as amended), send a certified copy of all material in its possession relevant to the within Application including the Statement of Case, medical literature, and reports, statements, and examinations by medical professionals and witnesses be sent to the Applicant, and to the Registry.

All of which respectfully submitted this 15th day of November 2023



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