

PUBLIC

Court File No. T-1763-24

FEDERAL COURT

e-document

F I L E D	FEDERAL COURT COUR FÉDÉRALE	D E P O S É
	15-JUL-2024	
Jonathan Macena		
Ottawa, ONT		1

BETWEEN:

(Court seal)

TAYLOR MURPHY

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

APPLICATION UNDER section 18.1 of the *Federal Courts Act*, RSC, 1985, c F-7.

NOTICE OF APPLICATION
CONFIDENTIAL

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 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 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.

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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 15, 2024

Issued by: Jonathan Macéna
(Registry Officer)

Address of
local office: Federal Court
Thomas D’Arcy McGee Building
90 Sparks Street
Ottawa, Ontario
K1A 0H9

TO: **Attorney General of Canada**
Office of the Deputy Attorney General of Canada
Department of Justice Canada
50 O’Connor Street, Suite 500
Ottawa, Ontario K1A 0H8

AND TO: **The Registry**
Federal Court
Thomas D’Arcy McGee Building
90 Sparks Street, Main Floor
Ottawa, Ontario K1A 0H9

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APPLICATION

THIS IS AN APPLICATION FOR JUDICIAL REVIEW in respect of the Minister of Veterans Affairs' refusal to assess the Applicant's vocational rehabilitation needs in respect of the Applicant's application for Rehabilitation Services and Vocational Assistance under section 8 of the *Veterans Well-being Act*, which application was submitted by the Applicant on April 13, 2023, and approved by the Minister of Veterans Affairs on July 25, 2023.

THE APPLICANT MAKES APPLICATION FOR:

A declaratory order, pursuant to sections 18 and 18.1 of the *Federal Courts Act*, declaring that the Minister of Veterans Affairs owed the Applicant a duty of care to assess the Applicant's vocational rehabilitation needs pursuant to sections 2.1 and 10 of the *Veterans Well-being Act*, and that the Minister of Veterans Affairs' refusal to assess the Applicant's vocational rehabilitation needs was unlawful; and

Such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THE APPLICATION ARE:

1. The Applicant is a veteran of the Canadian Armed Forces.
2. The Applicant was compulsorily released from service in the Canadian Armed Forces on medical grounds. The Applicant's date of release was July 5, 2024.
3. On July 25, 2024, the Minister of Veterans Affairs approved the Applicant's application for Rehabilitation Services and Vocational Assistance, pursuant to section 8 of the *Veterans Well-being Act*. The Minister of Veterans Affairs determined that the Applicant is a veteran who has a physical health problem resulting primarily from service in the Canadian Forces that is creating a barrier to re-establishment in civilian life.

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4. Pursuant to subsection 10(1) of the *Veterans Well-being Act*, “The Minister shall, on approving an application made under section 8, assess the veteran’s medical rehabilitation, psycho-social rehabilitation and vocational rehabilitation needs.”
5. The Minister of Veterans Affairs refused to assess the Applicant’s vocational rehabilitation needs.
6. The Minister of Veterans Affairs refused to exercise its jurisdiction.
7. The Minister of Veterans Affairs’ refusal to assess the Applicant’s vocational rehabilitation needs was unlawful.
8. The Minister of Veterans Affairs owes a public duty of care to the Application, pursuant to sections 2.1, 8, and 10 of the *Veterans Well-being Act*.
9. The Minister of Veterans Affairs has breached its statutory duty of care owed to the Applicant.
10. The Court has jurisdiction to hear this application.
11. This dispute is real and not theoretical.
12. The Applicant has a genuine interest in the resolution of this dispute.
13. The Respondent has an interest in ensuring that the Crown, the Government, and the Ministers of the Crown conduct themselves in accordance with law, and a statutory duty to see that the administration of public affairs is in accordance with law.
14. Determining the lawfulness of state action is a matter of public importance.

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15. Sections 2(1), 17, 18, 18.1, and 18.4 of the *Federal Courts Act*, R.S.C., 1985, c. F-7.
16. Sections 2, 2.1, 8, 10, and 75.2 of the *Veterans Well-being Act*, S.C. 2005, c. 21.
17. Sections 2 and 4 of the *Department of Veterans Affairs Act*, R.S.C., 1985, c. V-1.
18. Sections 2 and 4 of the *Department of Justice Act*, R.S.C., 1985, c. J-2.
19. Section 8 of the *Veterans Well-being Regulations*, SOR/2006-50.
20. Section 64 of the *Federal Courts Rules*, SOR/98-106.
21. Such further and other grounds as this Honourable Court may allow.

THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:


- A. Affidavit of Taylor Murphy;
- B. Any relevant legislation;
- C. Any relevant jurisprudence;
- D. Any relevant documents or other material requested below; and
- E. Such further and other material as counsel or the parties may advise and this Honourable Court may permit.

THE APPLICANT REQUESTS the Minister of Veterans Affairs 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 Minister of Veterans Affairs to the Applicant and to the Registry:

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- F. VAC File Notes – [REDACTED], Murphy, Taylor James – Master Corporal;
- G. JM Active Monitoring and Evaluation Notes, in relation to the Applicant;
- H. All correspondence between the Department of Veterans Affairs and Partners in Canadian Veterans Rehabilitation Services, in relation to the Applicant; and
- I. All correspondence among and between employees of the Department of Veterans Affairs about, or relating to, the Applicant or the provision of services to the Applicant.

July 14, 2024


Taylor Murphy

