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Court File No. \_\_\_\_\_

**FEDERAL COURT**

BETWEEN:

**BRANDIN BRICK**

Applicant

- and -

**THE ATTORNEY GENERAL OF CANADA**

Respondent

APPLICATION pursuant to Section 18.1 of the *Federal Courts Act*

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**NOTICE OF APPLICATION**

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TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant 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 applicant requests that this application be heard at the Federal Court in 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 applicant's solicitor, or where 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.

**DATE:**

**Issued By:**

(Registry Office)

**Address of  
Local office:**

**TO:** Parole Board of Canada  
c/o Ms. Paula Vargas  
Parole Board of Canada – Prairie Region (Saskatoon)  
101 – 22nd Street East, 6th Floor  
Saskatoon, Saskatchewan  
S7K 0E1

Telephone: 1-888-288-4228  
Fax: 306-975-5892  
Email: Info-pra@pbc-clcc.gc.ca  
**Decision maker**

Attorney General of Canada  
Prairie Regional Office - Saskatoon  
Department of Justice Canada  
Saskatoon Square  
410 – 22nd Street East, Suite 410  
Saskatoon, Saskatchewan  
S7K 5T6

Telephone: 306-518-0800  
Fax: 306-975-4030  
Email: AGC\_PGC\_SASKATOON@JUSTICE.GC.CA  
**Respondent**

## APPLICATION

### THE MATTER UNDER REVIEW:

1. THIS IS AN APPLICATION for judicial review of the decision by the Appeal Division of the Parole Board of Canada (“PBC-AD”), dated April 5, 2024, affirming the decision of the Parole Board of Canada (“PBC”), dated December 28, 2023, to detain Brandin Brick through his period of statutory release pursuant to ss. 129-132 of the *Corrections and Conditional Release Act*, SC 1992, c20 (“CCRA”).

### THE APPLICANT MAKES APPLICATION FOR:

1. An Order that the application for judicial review be granted, and that that the following decisions be quashed:
  - a. The Commissioner’s decision to refer the matter to the Parole Board of Canada under *CCRA* s. 129;
  - b. The decision of the Parole Board of Canada to detain the Applicant, dated December 28, 2023; and
  - c. The decision of the Appeal Division of the Parole Board of Canada affirming the decision to detain, dated April 5, 2024.
2. A declaration that the Applicant’s rights under s. 7 of the *Canadian Charter of Rights and Freedoms* were breached when detention was ordered despite a failure to meet obligations around disclosure, procedural fairness, and the right to counsel.
3. Such further and other relief as this Honourable Court may deem just.

**THE GROUNDS FOR THE APPLICATION ARE:**

1. The Commissioner of Correctional Service Canada (“CSC”) referred this matter to the PBC pursuant to s. 129 of the *CCRA* on the third working day after the recalculation of the sentence. This failed to meet the two working day limit set out in s. 129(3.1). The Commissioner had therefore lost jurisdiction when the referral was made. The referral was a nullity and the PBC did not have jurisdiction to hold detention proceedings against the Applicant. The PBC-AD relied on an unreasonable interpretation of s. 129(3.1) to extend the time limit imposed by Parliament on the Commissioner.

2. CSC refused or neglected to provide the Applicant’s counsel with disclosure or a list of the materials that were before the PBC. This hindered counsel’s ability to provide effective advice to the Applicant. The PBC-AD erred in ruling that disclosure was the responsibility of CSC and that the PBC had no authority to direct CSC in fulfilling its disclosure obligations. CSC obstructed, and the PBC failed to ensure, the Applicant’s rights to counsel, disclosure, and a fair hearing, contrary to statutory obligations and s. 7 of the *Canadian Charter of Rights and Freedoms*.

3. The PBC erred by ordering the Applicant’s detention while failing to consider the outstanding remand warrant against him. The PBC-AD was unreasonable in deciding that the remand warrant was not relevant to the question of detention before the PBC.

**THIS APPLICATION WILL BE SUPPORTED by the following material:**

4. Affidavits to be sworn (to be filed at a later date in accordance with the *Rules* of this court); and

5. Such other further materials as this Honourable Court may permit.

**REQUEST FOR TRIBUNAL RECORD:**

6. Pursuant to s. 317 of the Federal Courts Rules, the Applicant requests that the Parole Board of Canada send a certified copy of the following to the Applicant and to the Registry:

- a. Decisions rendered by the PBC and PBC-AD in this matter;
- b. Appeal letter from Pierre Hawkins to the PBC-AD dated February 27, 2024;
- c. Letter to the PBC from Pierre Hawkins dated November 6, 2023 entitled “Re: Procedural Fairness and Right to Counsel”;
- d. Letter from L. Heck of the PBC to Pierre Hawkins dated November 8, 2023 in response to the above;
- e. CSC Policies governing its handling of the right to disclosure and legal counsel in detention hearings;
- f. Audio recording of the PBC hearing held December 20, 2023;
- g. Letter for Federal Offenders – Eligibility Dates dated September 15, 2023, referenced at p. 4 of the PBC-AD decision; and
- h. Any other document deemed relevant for the present application.

DATED May 3, 2024.

*Pierre E. Hawkins*

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**Pierre E. Hawkins**

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Solicitor for the Applicant