

Federal Court of Appeal File No. A-72-23  
~~Federal Court File No. T-766-20~~

FEDERAL COURT OF APPEAL

BETWEEN:

**JEAN-KYLE BIENVENU**

<b>FEDERAL COURT OF APPEAL COUR D'APPEL FÉDÉRALE</b>	
FILED	March 8, 2023
Soraya Premji	
<b>VANCOUVER, BC</b>	1
Appellant / Applicant	

and

**THE ATTORNEY GENERAL OF CANADA**

Respondent

**NOTICE OF APPEAL**

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears below.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at Vancouver, British Columbia.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the *Federal Courts Rules* and serve it on the appellant's solicitor, or, if the appellant is self-represented, on the appellant, WITHIN 10 DAYS after being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the

*Federal Courts Rules* instead of serving and filing a notice of appearance.

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 APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

March 8, 2023

Address of local office:

Pacific Centre  
P.O. Box 10065  
701 West Georgia Street  
Vancouver, British Columbia  
V7Y 1B6

Issued by: Originally signed by  
Soraya Premji

TO:

**Jan Verspoor**  
Department of Justice Canada  
Government of Canada  
British Columbia Regional Office  
900 – 840 Howe Street  
Vancouver, B.C. V6Z 2S9  
National Litigation Sector

## APPEAL

### THE APPELLANT APPEALS:

1. To the Federal Court of Appeal from the order of Madam Justice Sadrehashemi dated February 6, 2023 by which the court dismissed Jean-Kyle Bienvenu's judicial review, in which Mr. Bienvenu sought to declare section 5.01 of the *Veterans Well-being Regulations*, SOR/2006-05 *ultra vires*.

### THE APPELLANT ASKS:

1. The Order of Madam Justice Sadrehashemi be set aside;
2. That the Federal Court of Appeal grant Mr. Bienvenu's judicial review; and
3. That the Federal Court of Appeal declare section 5.01 of the *Veterans Well-being Regulations*, *ultra vires*.

### THE GROUNDS OF APPEAL are as follows:

1. This appeal arises out of the Appellant's judicial review of a June 17, 2020 Veterans Affairs decision to deny Mr. Bienvenu the Education and Training Benefit under Part 1.1 of the *Veterans Well-Being Act*, SC 2005, c 21. The Appellant sought a declaration that section 5.01 of the *Veterans Well-being Regulations*, regarding the interpretation of "service" for reserve force veterans was *ultra vires*.
2. Madam Justice Sadrehashemi heard the judicial review, dismissed the Appellant's judicial review, and found section 5.01 of the *Veterans Well-being Regulations*, was not *ultra vires*.
3. In dismissing the Appellant's judicial review, Madam Justice Sadrehashemi made

the following errors in law:

- a. Madam Justice Sadrehashemi failed to “liberally” interpret the *Veterans Well-Being Act*, in a manner consistent with the purpose of that *Act* as set out in Section 2 of that *Act*.

The APPELLANT REQUESTS:

1. That this appeal be heard in Vancouver, British Columbia.
2. The court directs that the appeal will proceed without costs against either party because the importance and complexity of the issues, and because it is in the public interest in having the proceeding litigated.

March 8, 2023



Signature of **Ravi R. Hira K.C.**  
Hira Rowan LLP  
700 – 570 Granville Street  
Vancouver, B.C. V6C 3P1

SOR/2004-283, ss. 35 and 38

I HEREBY CERTIFY that the above document is a true copy of the original issued out of/ filed in the Court on the 8th day of March 2023. Dated this 10th day of March 2023.