

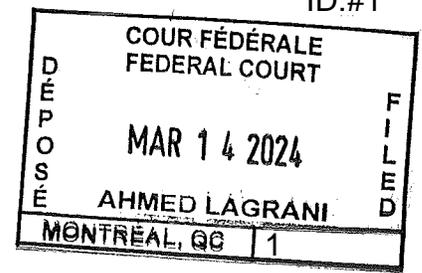
JR

File: T-550-24

FEDERAL COURT

ID:#1

Between:
RICHARD RYAN
Applicant



and

ATTORNEY GENERAL OF CANADA
ATTORNEY GENERAL OF QUEBEC
PAROLE BOARD OF CANADA

Respondents

NOTICE OF APPLICATION

Sections 18 and 18.1 of the *Federal Courts Act* (R.S.C., 1985, c. F-7)
and
Section 300 and following of the *Federal Courts Rules* (SOR/98-106)

Deposited by:
Robert Israel
BATTISTA TURCOT ISRAEL s.e.n.c.
388, rue Saint-Jacques, 2e étage
Montréal (Québec) H2Y 1S1
Téléphone: 514-903-4112 ext. 102
Fax: 514 312-1510
risrael@btiavocats.com

To:
ATTORNEY GENERAL OF CANADA
Complexe Guy-Favreau, East Tower,
9th Floor
Montreal, Quebec H2Z 1X4

ATTORNEY GENERAL OF QUEBEC
Lavoie, Rousseau (Justice-Québec)
Ministère de la Justice
Direction du contentieux

300 boulevard Jean-Lesage, bureau
1.03
Québec (Québec) G1K 8K6
Téléphone: 418 649-3524 poste 42140
Télécopieur: 418 646-1656
lavoie-rousseau@justice.gouv.qc.ca

PAROLE BOARD OF CANADA
QUÉBEC REGIONAL OFFICE
200 René-Lévesque Boulevard West,
West Tower, 10th floor, Suite 1001
Ville-Marie, Montréal, QC, H2Z 1X4

FORM 301 Rule 301

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 (place where Federal Court of Appeal (or Federal Court) ordinarily sits). *Montreal* 

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.

Issued by: _____

Address of local office: _____

TO: **ATTORNEY GENERAL OF CANADA**
Complexe Guy-Favreau, East Tower, 9th Floor
200, boul., René-Levesque West
Montreal, Quebec H2Z 1X4

ATTORNEY GENERAL OF QUEBEC

Lavoie, Rousseau (Justice-Québec)

Ministère de la Justice

Direction du contentieux

300 boulevard Jean-Lesage, bureau 1.03

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Application

This is an application for judicial review in respect of a decision by the Parole Board of Canada (Appeal Division) of February 14, 2024 upholding a decision of the Parole Board of Canada of May 30, 2023 to deny the Applicant day and full parole.

The applicant makes application, by virtue of sections 18 and 18.1 of the *Federal Courts Act* (R.S.C., 1985, c. F-7), for the following **relief**:

Set aside the decision of the Parole Board of Canada, and:

ORDER the Applicant released on day or full parole;

or

REFER the matter back to the Parole Board of Canada for determination in accordance with such directions as it considers to be appropriate;

and

ORDER an accelerated parole review for the Applicant;

and

RULE that the indeterminate sentence regime governed by the *Criminal Code* and applicable to the Applicant is unconstitutional.

The **grounds** for the application are¹:

THAT the Parole Board of Canada refused to exercise its jurisdiction in assessing whether the Applicant's sentence has become grossly disproportionate in light of its recognition that the CSC had not reclassified him to a minimum-security institution despite the Board's own repeated statements regarding the "need" for him to be provided an opportunity to evolve in a less structured environment to test his gains.

THAT the Parole Board of Canada erred in law in making its decision, notably by not adhering to the Applicant's rights under section 12 of the *Canadian Charter of Rights and Freedoms* to not be sentenced to punishment that is cruel and unusual.

THAT the indeterminate sentence regime governed by the *Criminal Code* and applicable to the Applicant is unconstitutional. Specifically, though without limiting the possibility of making constitutional challenges with regard to other section of the *Canadian Charter of Rights*, the Parole Board of Canada's decision demonstrates that the parole process cannot, or can no longer, save the legislation from being successfully challenged under s.

¹ The Applicant reserves the right to amend these grounds.

12, for it does not ensure that incarceration is imposed for only as long as the circumstances of the individual case require. As such, the law does not protect the Applicant, or potentially others, from cruel and unusual punishment and is thus in violation of section 12 of the *Charter*.

This application will be supported by the following material:

1. An affidavit by the Applicant;
2. The relevant decisions of the Parole Board of Canada and supporting documentation contained within the Parole Board of Canada file regarding the Applicant;
3. Relevant jurisprudence.

March 14, 2024



Me Robert Israel

BATTISTA TURCOT ISRAEL s.e.n.c.

388, rue Saint-Jacques, 2e étage

Montréal (Québec) H2Y 1S1

Téléphone: 514-903-4112 ext. 102

Fax: 514 312-1510

ATTORNEYS FOR THE APPLICANT

SOR/2021-151, s. 22