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July 22, 2024 22 juillet 2024 <b>Court File</b>			
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**FEDERAL COURT**

**BETWEEN:**

**RYMMA KALCHENKO**

**Applicant**

**And**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**APPLICATION UNDER SECTION 5 18.1 OF THE *FEDERAL COURTS ACT***

**NOTICE OF APPLICATION**

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 VIRTUALLY via Zoom Call.

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.

Date: July 20, 2024

Issued by: \_\_\_\_\_

Address of local office:

1801 Hollis Street, 17<sup>th</sup> Floor  
Suite 1720  
Halifax, Nova Scotia  
B3J 3N4

TO: Atlantic Regional Office  
Department of Justice  
Suite 1400, Duke Tower  
5251 Duke Street  
Halifax, Nova Scotia B3J 1P3

## Application

1. This is an application for judicial review in respect to the decision of the Board Member of Parole Board of Canada (the "Board Member"), dated of June 12, 2024 (the "Decision"), denying the Applicant's request for Criminal Records Suspension assessed against her in respect of her single 2014 summary conviction of Obstructing a Police Officer, pursuant to the Judicial Review of this decision provisions at the Federal Court within the time prescribed at subsections S 18.1 (2) of the *FEDERAL COURTS ACT* (the "Act").

## Relief Sought

2. The applicant makes application for:
  - a. A Declaration that the Board Member's decision to deny Criminal Records Suspension was unreasonable;
  - b. An Order declaring Board Member's Decision invalid or unlawful; or quash the Decision of the Board Member;
  - c. An Order setting aside the Board Member's Decision and directing the Board Member to grant the Applicant's request for Criminal Records Suspension;
  - d. In the alternative, an Order setting aside the Board Member's decision and referring the Decision of the Board Member back for redetermination in accordance with such directions as this Honourable Court deems appropriate;
  - e. In the further alternative, an Order setting aside the Board Member's Decision and referring the Decision of the Board Member back for redetermination;
  - f. An Order granting the Applicant costs of this Application; and
  - g. Such further and other relief as this Honourable Court may deem just.

## Grounds for Application

3. The grounds for the application are:

- a. The Applicant submitted a request for Criminal Record Suspension in respect of her single 2014 summary conviction of Obstructing a Police Officer (the "Record Suspension Application").
- b. In a letter dated February 11, 2024, the Board Member communicated its first decision regarding the Record Suspension Application. The Board Member denied the Applicant's request.
- c. On or about July 11, 2024, the Applicant requested the Judicial Review of the Board Member's decision.
- d. By letter dated June 12, 2024, the Board Member issued the Decision that is the subject of this Application. The Board Member again denied the request stating that it is a Final Decision. Applicant received Final Decision letter by Post mail on July 5, 2024.
- e. In denying the Record Suspension Application, the Board Member erred in fact and law, and made a Decision that is unreasonable. The Board Member:
  - i. Acted without jurisdiction, acted beyond his jurisdiction or refused to exercise his jurisdiction;
  - ii. Failed to observe a principle of natural justice, procedural fairness or other procedure that he was required by law to observe;
  - iii. Erred in law in making a Decision or an Order, whether or not the error appears on the face of the record;
  - iv. Based on his Decision or Order on an erroneous finding of fact that he made in a perverse or capricious manner and/or without regard for the material before him; or
  - v. Acted in any other way that was contrary to law.
- f. In particular:
  - i. The Board Member, in making his Decision, failed to have regard for the evidence before him when considering the Applicant's grounds;
  - ii. The Board Member acted contrary to law and thereby erred in law and fettered his discretion by misinterpreting what constitutes "extraordinary circumstances" warranting relief;
  - iii. The Board Member failed to take into account the Applicant's efforts to resolve this matter; and

- iv. The Board Member based his Decision on perverse and capricious findings not warranted by the facts and evidence before him and thereby acted without jurisdiction;
  - v. Acted, or failed to act, by reason of fraud or perjured evidence; or
  - vi. Acted in any other way that was contrary to law.
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- g. Sections 18.1 and 18.2 of the *Federal Courts Act*; R.S.C. 1985, c. F-7;
  - h. Part 5 of the *Federal Courts Rules*, SOR/98-106; and
  - i. Such further and other grounds as counsel may advise and this Honourable Court may permit.

#### **Evidence to be Relied Upon**

- 4. This application will be supported by the following material:
  - a. Record Suspension Application;
  - b. The Decision;
  - c. The Affidavit of the Applicant; and
  - d. Such further and other materials as counsel may advise and this Honourable Court may permit.
  - e. Documentary Exhibits: A - Letter from a Priest; B - Letter from a Lawyer; C - Letter of Grounds and Extraordinary Circumstances; D - RCMP Fingerprints and Criminal Record; E - Halifax Provincial Court Record;
  
- 5. The Applicant requests, pursuant to *Rule 317* of the *Federal Court Rules*, that the Board Member send a certified copy of the following material that is not in the possession of the Applicant but is in the possession of the Board Member, the Parole Board of Canada or their officials to the Applicant and to the Registry:
  - a. All documents and communications (including but not limited to memoranda, reports, studies, comments, notes, and documents and communications in electronic form such as email correspondence or voicemail messages) relating to, or in any way concerned with the decision of the Board Member.

*Rymma Kalchenko*

Dated: July 20, 2024

Signed: \_\_\_\_\_

Rymma Kalchenko  
4-590 Archibald Drive,  
Bathurst, NB, E2A 4E2,  
Canada

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**Applicant**

TO: Atlantic Regional Office  
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Suite 1400, Duke Tower  
5251 Duke Street  
Halifax, Nova Scotia B3J 1P3