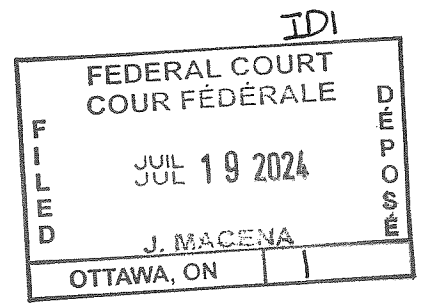


Court File No. T-1824-24

FEDERAL COURT



BETWEEN

Captain John Funelas

Applicant

-and-

The Attorney General of Canada

Respondent

**Notice of Application for Judicial Review pursuant to s. 18.1
of the *Federal Courts Act***

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

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 19, 2024 Issued by: Jonathan Macéna

(Registry Officer)

**J. MACENA
REGISTRY OFFICER
AGENT DU GREFFE**

Address of local office:

TO: Attorney General of Canada
Office of the Deputy Attorney General of Canada
284 Wellington Street
Ottawa, Ontario
K1A 0H8

AND TO: Canadian Forces Grievance Authority
National Defence Headquarters
101 Colonel By Dr.
Ottawa, Ontario
K1A 0K2

**90 Sparks Street / 90, rue Sparks
Ottawa, Ontario / Ottawa (Ontario)
K1A 0H9**

Application

1. **THE APPLICANT** makes an Application:
 - (a) for judicial review of the final decision of Colonel Christophe Cotton of the Canadian Forces Grievance Authority, file # 5080-1-MG001111 (MG213339), dated June 12, 2024 and received by the Applicant on June 28, 2024.
 - (b) A declaration that Colonel Cotton's determination that Captain Funelas was treated fairly in accordance with the applicable rules, regulations and policies did not appropriately apply the law to the contextual facts.
 - (c) A declaration that Colonel Cotton's decision breached the principles of procedural fairness on the basis that he did not:
 - (i.) Fully or impartially assess the entirety of the evidence before him from all parties
 - (ii.) Impartially weigh the evidence of all parties
 - (iii.) Wilfully and blindly ignored relationships where an apprehension of bias was clearly evident
 - (iv.) Demonstrably assess the evidence before him but rather accepted the conclusions of prior decision-makers on the basis of error of law and fact
 - (d) A declaration that Captain Funelas did not breach his duties of pastoral care or in the alternative an order referring the issues of pastoral care to a person with the proper authority to reconsider matters of pastoral care in accordance with applicable policies

and guidelines, independent from the Canadian Armed Forces Royal Canadian Chaplain Service (RCChs).

- (e) An Order that the IC be rescinded and that all IC documents be removed from the Applicant's personnel file.
- (f) An Order for the Applicant's costs in this matter: and
- (g) Such further and other relief as counsel may advise and this Honourable Court may deem just.

2. **THE GROUNDS FOR THE APPLICATION**, pursuant to s.18.1(4) of the *Federal Court Act*, are that the Defendant:

- (a) acted without jurisdiction, acted beyond its jurisdiction or refused to exercise its jurisdiction;
- (b) failed to observe a principle of natural justice, procedural fairness or other procedure that it was required by law to observe;
- (c) erred in law in making a decision or an order, whether or not the error appears on the face of the record;
- (d) based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it;
- (e) acted, or failed to act, by reason of fraud or perjured evidence; or
- (f) acted in any other way that was contrary to law.

3. This Application will be supported by the following material:

- (a) Grievance – H69 438 707 Captain J. Funelas Initial Counselling – Performance Deficiency submitted to Initial Authority (IA) on October 23, 2020;
- (b) Additional Documents and Representations based on the release of Access to Information and Personal Information (ATIP) request submitted to the IA on March 9, 2020;

- (c) Response to the Initial Authority Grievance Disclosure – Synopsis H69 438 707
Captain J.E. Funelas submitted to the IA on July 14, 2021;
- (d) Additional Documents and Representations based on the release of Access to Information and Personal Information (ATIP) request submitted to the IA submitted to the IA on September 20, 2021;
- (e) Recourse – Request to Consider and Determine the Grievance for Forwarding to the Final Authority (FA) submitted to the IA on November 3, 2021;
- (f) In Preparation for the Decision of the FA Grievor’s Response to the Findings & Recommendations (F&R) of the Military Grievances External Review Committee (MGERC) Committee File Number 2021-303 dated 6/7 December 2022 and Additional Representations submitted to the MGERC on December 24, 2022;
- (g) In Preparation for the Decision of the FA Grievor’s Response to the Findings and Recommendations made by the Grievance Analyst from the Director, Canadian Forces Grievance Authority (DCFGA) & Director General, Conflict Resolutions and Services, Professional Conduct and Culture, National Defence, Government of Canada, submitted on July 10, 2023;
- (h) In Preparation for the Decision of the FA, Grievor’s Response to the 24-25 July 2023 Additional Disclosure made by the Grievance Analyst from the Director, Canadian Forces Grievance Authority (DCFGA) & Director General, Conflict Resolutions and Services, Professional Conduct and Culture, National Defence, Government of Canada, submitted on August 14, 2023;
- (i) In Preparation for the Decision of the FA, Grievor’s Response to the 15 August 2023 Additional Disclosure made by the Grievance Analyst from the Director, Canadian

Forces Grievance Authority (DCFGA) & Director General, Conflict Resolutions and Services, Professional Conduct and Culture, National Defence, Government of Canada, submitted on August 29, 2023;

(j) Final Determination by the FA dated 12 July 2024 and received by Capt. Funelas on June 28, 2024.

(k) Reference to all legislation, DAODs, policies, procedures, regulations, or guidelines as set out within the context of the foregoing documents.

Date: July 19, 2024



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Court File No.

Captain John Funcelas v. **Attorney General of Canada**

Applicant

Defendants

FEDERAL COURT

PROCEEDING COMMENCED AT TORONTO

Notice of Application for Judicial Review

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Lawyer for the Plaintiff