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Court File No.

**FEDERAL COURT**

**B E T W E E N:**

*(Court Seal)*

**KRISTOPHER HOFFMAN**

Applicant

and

**ATTORNEY GENERAL OF CANADA**

Respondent

APPLICATION UNDER section 18.1 of the *Federal Courts Act*, RSC 1985, c F-7

**NOTICE OF APPLICATION**

TO THE RESPONDENT(S)

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 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 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 \_\_\_\_\_ Issued by \_\_\_\_\_  
(Registry Officer)

Address of Thomas D'Arcy McGee Building  
local office: 90 Sparks Street, 5th floor  
Ottawa, Ontario  
K1A 0H9

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

## APPLICATION

**THIS IS AN APPLICATION FOR JUDICIAL REVIEW** in respect of a decision Director of Military Careers Administration (DMCA) to proceed with an Administrative Review, file number G21051202, pursuant to Defence Administrative Order and Directive (DAOD) 5019-2 (the Decision), notwithstanding that: (a) material issues of alleged harassment raised in that AR are presently disputed in a separate Application for judicial review before the Federal Court (Docket T-1231-22); and, (b) other material issues raised in the Administrative Review have not been tested using the proper mechanisms expressly created by, or under the authority of, the *National Defence Act (NDA)*, namely: the Code of Service Discipline or the Canadian Forces Harassment Prevention and Resolution policy. The impugned Administrative Review is premature and constitutes an abuse of process. A decision to re-open the impugned Administrative Review was made on 3 February 2022. On 18 February 2022, the Applicant provided DMCA with representations contesting the grounds to proceed with the impugned Administrative Review. The Applicant received no further communication on this issue until 15 December 2022, when he received confirmation that the impugned Administrative Review would proceed.

### **THE APPLICANT MAKES APPLICATION FOR:**

1. A Declaration that the Administrative Review is an improper mechanism for adjudicating untested and unproven allegations in the administration of the affairs of the Canadian Forces;
2. An Order of *certiorari* quashing the Decision to conduct an Administrative Review;

3. In the alternative, a Declaration that the impugned Administrative Review is premature, as material factors within the consideration of the Administrative Review are disputed in distinct and, as yet unresolved, grievances and applications;
4. An Order of *prohibition*, barring the conduct of the Administrative Review until the grievances and applications relating to disputed material factors cited in the Administrative Review are resolved;
5. An Order that this application be specially managed pursuant to Rule 384 of the *Federal Courts Rules*;
6. An Order under Rule 385 of the *Federal Court Rules* to combine the present Application with the Motion at Federal Court Docket 22-T-5 and the Application at Federal Court Docket T-1231-22;
7. An Order under Rule 385 of the *Federal Court Rules* for an expedited hearing of this Application;
8. Costs of this Application; and
9. Such further and other relief as counsel may advise and the Court may permit.

**THE GROUNDS FOR THE MOTION ARE:**

**Summary**

10. The Applicant, Corporal Kristopher Hoffman, is a non-commissioned member (“NCM”) in the Regular Force component of the Canadian Forces. He is the subject of an Administrative Review, file number G21051202, being conducted by Director Military Careers Administration (DMCA) under Defence Administrative Order and Directive (“DAOD”) 5019-2.

11. On 26 October 2020, prior to the commencement of the impugned Administrative Review, Corporal Hoffman submitted grievances under the Canadian Forces (“CF”) statutory grievance process, challenging two remedial measures of Counselling and Probation (“C&P”). These two remedial measures were principal factors upon which the Administrative Review relied. The grievances were determined by the final authority (“FA”) on 4 May 2022.

12. The decision determining the grievances is the subject of an Application for judicial review, Federal Court Docket T-1231-22. Although the Application has not yet been heard by the Court, in pleadings on behalf of the Respondent, counsel for the Attorney General of Canada (“AGC”) has conceded that the determination of these grievances was unfair and unreasonable.

13. The impugned Administrative Review is a continuation of a process begun in early 2021 and which resulted in a decision, dated 25 November 2021, ordering the Applicant’s compulsory release (“Release Decision”) from the CF under Item 5(f) of the Table to article 15.01 of the Queen's Regulations and Orders for the Canadian Forces (“QR&O”).

14. The Release Decision was communicated to Corporal Hoffman shortly before the seasonal (Christmas) Block Leave period beginning mid-December 2021. On 7 December 2021,

Corporal Hoffman grieved the Release Decision based upon a lack of procedural fairness and abuse of process. On 17 January 2022, the Applicant brought a Motion before the Federal Court, Federal Court Docket 22-T-5, seeking interlocutory injunctive relief in light of the incapacity of the CF grievance process to provide a timely remedy prior to his anticipated release.

15. On 3 February 2022, DMCA decided to “suspend” – but not withdraw – the Release Decision. DMCA directed that the Administrative Review would be “re-opened”.

16. On 18 February 2022, the Applicant wrote to DMCA, through the Applicant’s commanding officer (“CO”), objecting to the continued conduct of the Administrative Review.

17. The Applicant received no immediate response to his objections.

18. The Motion, Federal Court Docket 22-T-5, was placed in abeyance, on consent.

19. On 15 December 2022, the Applicant received a 470-page document as disclosure in relation to the Administrative Review process that had been re-opened. This was the first communication that the Applicant had received in relation to the Administrative Review following his objections dated 18 February 2022.

20. The Applicant was initially directed to provide his representations for this Administrative Review not later than 16 January 2023. Two-thirds of the period granted to complete his representations fell within his seasonal Block Leave. In effect, the Applicant was directed to provide his representations not later than a week after returning from Block Leave.

21. On 16 December 2022, the Applicant’s counsel wrote to the legal advisor to DMCA, and to the counsel of record from the AGC with carriage of Federal Court Dockets 22-T-5 and T-

1231-22, to indicate the problematic nature of the timing of the disclosure and the continued conduct of the Administrative Review as an improper substitute for legitimate adjudicative mechanisms under the *National Defence Act* (“NDA”).

22. On 19 December 2022, the Applicant and his counsel were informed that Applicant’s representations would be expected not later than 15 February 2023, but that the Administrative Review process would proceed.

### **Background – Corporal Hoffman**

23. Corporal Hoffman joined the Canadian Forces on 11 May 2012 as a Material Management Technician. He continues to serve in this Military Occupation. Upon his completion of his Military Occupation Specification training, Corporal Hoffman served in a variety of units of the Canadian Forces, predominantly in the Province of Quebec. Corporal Hoffman is an Anglophone. He has limited capacity in French.

24. Throughout all material circumstances, Corporal Hoffman was, and, for the moment, remains, an NCM in the Regular Force component of the Canadian Forces.

### **The Impugned Administrative Review**

25. On 13 March 2021, Corporal Hoffman’s CO signed a Notice of Intent (“NoI”) to recommend Corporal Hoffman’s release. The term “release” describes the termination of a CF member’s service in the CF, whether voluntary or compulsory.

26. This was the second such NoI to Recommend Release completed by an officer occupying the position of Corporal Hoffman’s CO. A previous NoI had been completed by a different

officer on 20 August 2020, and then withdrawn following the submission of representations by Corporal Hoffman, dated 4 September 2020.

27. The second NoI to Recommend Release was signed 13 March 2021 but was not presented to Corporal Hoffman until two months later, on 14 May 2021. Corporal Hoffman was provided two weeks to respond to the NoI.

28. Before the second NoI to Recommend Release was presented to Corporal Hoffman, an Administrative Review had already been ordered by Director Military Careers Administration 2 (DMCA2), a section falling under the DMCA.

29. On 5 May 2021, Corporal Hoffman's CO sent a letter to DMCA2 requesting an Administrative Review in support of his recommendation for Corporal Hoffman's compulsory release. This precipitated an "Advisory Message", dated 12 May 2021, directing that an Administrative Review would be conducted. The Advisory Message was provided to Corporal Hoffman on 14 May 2021, in concert with the NoI, dated 13 March 2021.

30. Although Corporal Hoffman's CO ostensibly offered Corporal Hoffman the opportunity to make representations regarding whether an Administrative Review should be conducted, the Administrative Review had already been ordered by that point in time.

31. On 28 May 2021, Corporal Hoffman submitted the following objections to the NoI:

- (a) The grounds for the recommended release were misrepresented;
- (b) He was in the process of grieving the fairness and merits of the remedial measures upon which the recommendation was based;

- (c) The proposed administrative action was being used as an improper substitute for the Code of Service Discipline;
- (d) The proposed Administrative Review was premature; and
- (e) The proposed administrative action was an abuse of process.

32. The Administrative Review was nevertheless conducted. Corporal Hoffman received a “disclosure package”, dated 28 July 2021, on 9 August 2021. He submitted his representations by letter dated 8 September 2021. Corporal Hoffman contested not only the untested and unproven allegations upon which the Administrative Review was based, but also contested the use of an Administrative Review to adjudicate allegations that had not been adjudicated using the proper mechanisms created by, and under the authority of, the *NDA*.

33. On 25 November 2021, DMCA signed a letter containing DMCA’s decision for compulsory release and reasons for decision (“DMCA Decision Letter”).

34. On 1 December 2021, DMCA issued the Release Message ordering Corporal Hoffman’s compulsory release, under Item 5(f) of the Table to article 15.01 of the QR&O, to be completed not later than 15 January 2022. Corporal Hoffman received the DMCA Decision Letter and the Release Message on 2 December 2021.

35. 15 January 2022 fell on a Saturday; consequently, Corporal Hoffman was directed to complete his release administration by 14 January 2022 and was informed that his final release meeting was scheduled for 1100 hours on 14 January 2022.

36. On 7 December 2021, Corporal Hoffman submitted a grievance contesting his compulsory release and the Administrative Review process upon which it was based.

37. On 8 December 2021, DMCA2 approved a message directing that Corporal Hoffman's release date would be postponed to 22 March 2022 "... in order for the member to complete the release process." Corporal Hoffman received a copy of this document on 9 December 2021.

38. On 17 January 2022, Corporal Hoffman filed a Notice of Motion – Federal Court Docket 22-T-5 – seeking interlocutory relief based upon multiple failings of procedural fairness leading to his anticipated compulsory release. The Motion sought expedited hearing as the Applicant's release was anticipated on 22 March 2022.

39. The DMCA order for Corporal Hoffman's compulsory release was "suspended" – not withdrawn – by DMCA on 3 February 2022. DMCA directed that the Administrative Review would be "re-opened".

40. On 18 February 2022, Corporal Hoffman wrote to DMCA, through his CO, opposing the conduct of the AR on the following grounds:

- (a) An Administrative Review is not a proper adjudicative mechanism to evaluate untested evidence relating to allegations of sexual misconduct, including sexual harassment;
- (b) The proper process for such adjudication is the Code of Service Discipline or, alternatively, the CF Harassment Prevention and Resolution policy under DAOD 5012-0. He had a legitimate expectation that those processes would be used and

failure to do so constitutes a breach of procedural fairness and an abuse of process;

(c) The Administrative Review was premature as material factors relevant to the Administrative Review were still in the process of being adjudicated in the CF grievance process; and

(d) Having already concluded, on a faulty process, that the Applicant must be compulsorily released from the CF, DMCA could not approach the subject with an open mind.

41. Corporal Hoffman received no response to his letter of 18 February 2022.

42. On 15 December 2022, the day before Corporal Hoffman's unit was to commence their seasonal (Christmas) Block Leave period, Cpl Hoffman received 470-page disclosure in relation to the Administrative Review that had been "re-opened". This was the first communication that Corporal Hoffman received in response to his objections dated 18 February 2022.

43. Corporal Hoffman was initially directed to provide his representations for this Administrative Review not later than 16 January 2023. Two-thirds of the period granted to him would comprise his seasonal Block Leave. In effect, the Applicant's representations would have been due a week after returning from Block Leave.

44. On 16 December 2022, the Applicant's counsel wrote to the legal advisor to DMCA and to the counsel of record from the Attorney General of Canada (AGC) with carriage of Federal Court Dockets 22-T-5 and T-1231-22, to indicate the problematic nature of the timing of the disclosure and the continued conduct of the Administrative Review.

45. On 19 December 2022, the Applicant and his counsel were informed that the due date for the Applicant's representations was adjusted to 15 February 2023, but that the Administrative Review process would proceed.

### **Corporal Hoffman's Grievances**

46. There are three grievances that are relevant to the present Application:

- (a) Grievance MG213376, dated 26 October 2020;
- (b) Grievance MG213373, dated 26 October 2020; and
- (c) Grievance MG018064, dated 7 December 2021.

47. The Applicant brought Grievance MG213376 to contest C&P imposed on him on 31 May 2016. He identified multiple procedural and substantive errors including a failure of disclosure and denial of his right to proceed in his first official language. This C&P is one of the material factors cited in the impugned Administrative Review.

48. The Applicant brought Grievance MG213373 to contest C&P imposed on him on 6 December 2019. He again identified multiple procedural and substantive errors including a failure of disclosure. This C&P is also one of the material factors cited in the impugned Administrative Review.

49. C&P constitutes a remedial measure under the policy promulgated under Canadian Forces DAOD 5019-4, Remedial Measures. Remedial measures are administrative processes used by military supervisors to correct subordinates' deficiencies. There are three types of remedial measure of increasing severity, and which are expected to be used in a progressive

manner. C&P is the third, and most severe, form of remedial measure. As with Administrative Review under DAOD 5019-2, the process under DAOD 5019-4 does not create effective means to adjudicate contested evidence or to test credibility.

50. The Applicant brought Grievance MG018064 to contest his compulsory release under the same Administrative Review that is impugned in the present Application. This grievance cited the several procedural errors and abuses of process leading up to the DMCA decision to order the Applicant's compulsory release.

51. Grievance MG018064 was assigned to the Director General Military Careers ("DGMC") as the initial authority in the grievance process on or about 10 January 2022. On 2 May 2022, the Applicant received an email from a grievance analyst with DGMC indicating that, due to a shortage of analysts and an increase in grievances, the initial authority was unlikely to adjudicate his grievance in a timely manner. He was informed that he could refer the grievance to the final authority ("FA") but was reminded that there was no limitation period for the FA to adjudicate the grievance. The grievance has not been withdrawn. To the Applicant's knowledge, the grievance remains with the initial authority, and remains unresolved.

52. Following the DMCA decision to suspend – but not withdraw – the Release Decision ordering the Applicant's compulsory release, no further action appears to have been taken regarding Grievance MG018064. This grievance is contained in the Motion Record at Federal Court Docket 22-T-05.

53. Grievances MG213376 and MG213373 were combined for a single determination by the FA in the CF grievance process. The Director Canadian Forces Grievance Authority

(“DCFGA”), acting as delegate of the Chief of the Defence Staff (“CDS”) as FA, determined these grievances on 4 May 2022. The Applicant received the decision on 16 May 2022.

54. The decision by the FA was predicated upon multiple procedural errors and was not reasonable. The Applicant sought judicial review of this decision on 14 June 2022. That application for judicial review is presently before the Federal Court as Docket T-1231-22. The Applicant’s and Respondent’s records are complete and have been served and filed. On 20 December 2022, a hearing was ordered for 8 February 2023.

55. Notably, in the pleadings for the application at T-1231-22, counsel for the AGC has conceded that the FA decision relating to grievances MG213376 and MG213373 was unfair and unreasonable. At issue in that application is the appropriate remedy. The Applicant contends that the multiple errors in the two impugned decisions that were grieved, combined with the repeated failure of CF decision-makers at each stage in the grievance process to correct the initial errors, warrants quashing not only the FA decision, but the remedial measures themselves.

### **Deficiencies in the Administrative Review Process**

56. The Administrative Review process under DAOD 5019-2 is a ‘paper process’. It does not receive evidence under oath. It does not permit examination or cross examination of witnesses. It is not designed to test conflicting evidence from different witnesses. It is not designed to test credibility of evidence in the face of conflicting versions. It does not afford the affected CF member an opportunity to make full answer and defence. It is not a reasonable substitute for the Code of Service Discipline. The Administrative Review process is designed to make decisions based upon prior adjudications of facts that employ proper processes.

57. In the Applicant's circumstances, the Administrative Review disclosure that he received, a day before beginning his seasonal Block Leave, relied principally on disciplinary investigations, most of which were conducted by the Military Police. Nearly all of these allegations were characterized as harassment. No charges under the Code of Service Discipline were ever laid following any of these investigations. Nor was the process under the CF Harassment Prevention and Resolution policy followed. Although DAOD 5012-0, Harassment Prevention and Resolution, was cited as a basis for the proposed compulsory release, the investigative and adjudicative processes under this policy were not followed.

58. Although the Applicant was subject to remedial measures under DAOD 5019-4 in relation to select allegations, these remedial measures were contested under the CF grievance process. Specifically, two of the principal allegations relate to the two instances of C&P challenged under grievances MG213376 and MG213373, which now comprise the basis of the application for judicial review at Docket T-1231-22.

59. Other allegations have not been tested in any proper process. These are presented in the Administrative Review disclosure, provided to the Applicant on 15 December 2022, under the heading "Summary of Facts".

60. One of the principal shortcomings of the AR process is that the relevant DMCA analyst presents a 'Summary of Facts' before the affected CF member has any opportunity to present his or her version of events or evidence. Consequently, by the time the affected CF member is permitted to have a voice in the process, an entrenched statement of facts – which is, in reality, merely a statement of allegations – is already presented. This engenders a closed-minded approach to the process. This is readily evident in the history of the Applicant's circumstances.

61. In addition to this problematic process, the disclosure provided to the subject of the Administrative Review – which, in the present circumstances, is taken principally from untested police reports – is excessively and improperly redacted. It falls short of the disclosure that would have been necessary under the Code of Service Discipline.

62. Administrative Reviews are conducted in a manner in which the CF member must disprove an entrenched factual narrative, even though that narrative is predicated upon untested allegations and is drafted before the affected CF member is permitted to offer his or her own evidence. In the Applicant's circumstances, reliance on Administrative Review constitutes a disingenuous and improper avoidance of the Code of Service Discipline in order to prosecute him for alleged misconduct.

### **Grievances, Administrative Review, and Abuse of Process**

63. The Canadian Forces grievance process is subject to endemic delay. The Third Independent Review of the *National Defence Act*, completed by Justice Morris Fish on 30 April 2021, observed that delay in the adjudication of grievances by the FA is typically measured in years. It is not uncommon for delay in excess of five years to occur.

64. The Applicant is aware that the prevailing view of the courts, and the Federal Court in particular, is that a member of the CF must first exhaust the adequate alternative remedy represented by the CF grievance process prior to seeking relief from the Federal Court.

65. However, CF decision-makers repeatedly misuse administrative processes as improper substitutes for disciplinary adjudication. DMCA has repeatedly used Administrative Review to adjudicate untested evidence relating to allegations against CF members. Although these

allegations are investigated as disciplinary misconduct, they are not tested under the Code of Service Discipline. Although they are characterized as harassment, they are not adjudicated through the CF Harassment Prevention and Resolution process. DMCA and CF decision-makers disingenuously avoid the judicial scrutiny offered under the Code of Service Discipline by ‘prosecuting’ personnel using Administrative Review, a process that is deficient for that task.

66. The Applicant’s circumstances represent an object example of this abuse of process. CF personnel have a legitimate expectation that CF decision-makers will use the specific processes created by, or under the authority of, the *NDA* to adjudicate alleged disciplinary misconduct and to investigate and resolve allegations of harassment. The relevant processes – the Code of Service Discipline and the CF Harassment Prevention and Resolution process, respectively – were never used in relation to any of the allegations against the Applicant and which now form the basis of the impugned Administrative Review and the recommendation for compulsory release.

### **Corporal Hoffman has Only Procedural Rights**

67. Officers and NCM of the CF are not in privity of contract with the Crown.

68. Officers and NCM of the CF are not permitted to form or join combines or collective bargaining units. They do not have recourse to arm’s-length or independent decision-making tribunals regarding what may be characterized as ‘employment disputes’.

69. Instead, as exemplified by the impugned Administrative Review, all decision-making, including decision-making that can have significant adverse impact on the rights, interests, and privileges of the officer or NCM, is conducted by the senior leadership of the CF.

70. All of the administrative processes to which the Applicant has been subject fall within the authority of various statutory decision-makers in the CF. These same decision-makers exercise broad, and largely unchecked, discretion in the timing, sequence, and conduct of these administrative processes. The Applicant's very standing as a member of the CF is subject to this broad discretion.

### **This Application Should Be Heard**

71. The Applicant anticipates that the AGC will bring a motion to dismiss the present Application and argue that the CF grievance process presents an 'adequate alternative remedy' in relation to the Applicant's concerns. However, the same grievance process will not be concluded until several months, or years, after Corporal Hoffman is released from the Canadian Forces.

72. The first Release Decision was made less than three months after Corporal Hoffman submitted his representations to DMCA. In comparison, it took over 18 months for Corporal Hoffman to receive a determination of grievances that were materially relevant to the impugned Administrative Review. And that determination was pointedly unfair and unreasonable. The grievance regarding the first Release Decision has not yet been determined even by the initial authority.

73. Various CF decision-makers have already, repeatedly, demonstrated a closed-minded approach to the material issues arising in the impugned Administrative Review. If the second adjudication of this same Administrative Review results in a decision ordering the Applicant's compulsory release, the Applicant will be obliged to bring an Application, again based upon the same urgency explained in the Motion at Federal Court Docket 22-T-5.

74. The impugned Administrative Review represents an abuse of process as an improper substitute for the Code of Service Discipline and the CF Harassment Prevention and Resolution process. It is also premature.

75. The CF has consistently fought to preserve the jurisdiction to address alleged breaches of discipline under the Code of Service Discipline. If the Applicant's alleged misconduct is so severe that it warrants compulsory release, then it presumably warrants prosecution under the Code of Service Discipline. The repeated refusal of CF decision-makers to test any of these allegations under the very disciplinary process created for that purpose is strongly indicative of a refusal to permit judicial scrutiny of decisions that significantly affect the rights, interests, and privileges of the Applicant in a markedly asymmetric relationship with the Crown.

76. The use of Administrative Review in these circumstances undermines the Applicant's legitimate expectations based upon existing legislation and CF policy. It contemplates factors presently disputed before the Federal Court. This constitutes an abuse of process and a breach of fairness.

### **Remedy Sought**

77. The Applicant seeks a Declaration from the Federal Court that the use of Administrative Review in these circumstances, to adjudicate untested evidence in a procedurally unfair manner, is an abuse of process and a breach of procedural fairness.

78. The Applicant seeks an Order of *certiorari* from the Federal Court quashing the Administrative Review on those same grounds.

79. Alternatively, the Applicant seeks a Declaration from the Federal Court that the adjudication of the Administrative Review is procedurally unfair for so long as the remedial measures, contested in grievances MG213376 and MG213373, remain in dispute.

80. The Applicant seeks an Order of *prohibition* from the Federal Court prohibiting the Canadian Forces from relying on the Counselling and Probation, dated 31 May 2016 and 6 December 2019, for the purposes of administrative action, until any and all grievances and litigation in relation to those remedial measures are resolved.

81. The Applicant pleads and relies on:

- (a) The *National Defence Act*, RSC 1985 c N-5, including ss 18, 29 to 29.28, and 30;
- (b) The *Queen's Regulations and Orders for the Canadian Forces*, Chapters 7 and 15.

82. The Applicant requests that this Application be heard on an expedited basis. The Applicant requests that the Motion 22-T-5 and the Application T-1231-22, be combined with the present Application. To that end, the Applicant requests that this Application be specially managed pursuant to Rule 384 of the *Federal Courts Rules*, SOR/98-106.

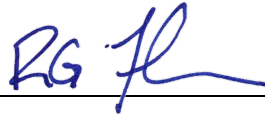
**THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Application:**

- (a) The affidavit of Corporal Kristopher Hoffman sworn in support of the Motion at Federal Court Docket 22-T-5 and the exhibits thereto;
- (b) The affidavit of Lieutenant-Colonel Christopher Comeau sworn in support of the Motion at Federal Court Docket 22-T-5 and the exhibits thereto; and

- (c) Such further and other material as counsel may advise and this Honourable Court may permit.

**THIS APPLICANT REQUESTS** pursuant to Rule 317 of the Federal Courts Rules a certified copy of the following material that is in the possession of the respondent Crown:

1. The full record of all material which is presently before DMCA, or which formed part of its files, at the time of the Decision, including all documents, memoranda, reports, emails, notes, and other communications considered, prepared and/or collected in the preparation of the Decision and in relation to Administrative Review G21051202; and
2. Without limiting the generality of the foregoing, any documents relevant to the adjudication of the Applicant's request.



December 20, 2022

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