

Federal Court



Cour fédérale

Date: 20220912

Dockets: T-569-20  
T-577-20

Citation: 2021 FC 1279

Ottawa, Ontario, September 12, 2022

PRESENT: The Associate Chief Justice Gagné

BETWEEN:

Docket: T-569-20

CASSANDRA PARKER and K.K.S. TACTICAL  
SUPPLIES LTD.

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

BETWEEN:

Docket T-577-20

CANADIAN COALITION FOR FIREARM RIGHTS,  
RODNEY GILTACA,  
LAURENCE KNOWLES, RYAN STEACY,  
MACCABEE DEFENSE INC., and  
WOLVERINE SUPPLIES LTD.

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

ORDER AND REASONS

[1] The Canadian Taxpayers Federation seeks leave to intervene in two of the six related files where the Applicants challenge the validity of the regulations made by the Governor in Council under section 117.15 of the *Criminal Code*, RSC 1985, c C-46 [Regulations], to prohibit a list of previously non-restricted or restricted firearms.

[2] The Federation is a not-for profit corporation with over 235,000 supporters and 30,000 donors across the country. Its mandate is to promote fiscal restraint, government transparency, and democratic accountability. The Federation states that it has a particular interest in the legal issues raised in this proceeding insofar as their determination require this Court to consider how reasonableness review is conducted absent comprehensive reasons and in the context of quasi-legislative decisions. It seeks leave to intervene to assist the Court by providing submissions on the administrative law dimensions of this Application.

[3] The Applicants did not take a position on the Federation's motion but the Respondent argues it should not be granted. For the Respondent, the Federation has no relevant or useful perspective to provide on the actual, real issues in these proceedings. In addition, the Federation's raising of a new issue — that of fiscal responsibility and accountability — is not permitted in the circumstances.

I. Nature of the intervention

[4] The Federation states that its genuine interest in these proceedings arises from its long history of involvement in issues relating to government spending and accountability, including

the various instruments by which this spending is accomplished. More specifically, it states it has an interest in the drain the Regulations is bound to place on public funds.

[5] The Federation’s approach would be to convince the Court that the Order in Council [OIC] promulgating the Regulations does not meet the test of a robust reasonableness review contemplated in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65. In addressing this, the Federation intends to “draw on its extensive institutional expertise and its perspective and public interest mandate to safeguard the interest of Canadians in fiscally responsible and accountable government action.”

## II. Issue

[6] These Motions raise a single issue: Should the Federation be granted leave to intervene in these proceedings?

## III. Analysis

[7] Under Rule 109 of the *Federal Court Rules*, SOR/98-106, the Court has the power to grant any person leave to intervene in a proceeding. Paragraph 109(2)(b) requires a proposed intervener to describe how its proposed participation will assist the Court in resolving the determination of the factual or legal issues before it.

[8] In *Métis National Council and Manitoba Metis Federation Inc. v Varley*, 2022 FCA 110, a panel of the Federal Court of Appeal recently confirmed that a central question in adjudicating

a motion for intervention is the usefulness of the proposed intervenor's submissions. It further endorsed Justice Stratas' commenting in *Canada (Citizenship and Immigration) v Canadian Council for Refugees*, 2021 FCA 13, that when examining usefulness, four questions need to be asked:

- (a) What issues have the parties raised?
- (b) What does the proposed intervenor intend to submit concerning those issues?
- (c) Are the proposed intervenor's submissions doomed to fail?
- (d) Will the proposed intervenor's arguable submissions assist the determination of the actual, real issues in the proceeding?

[9] In the case before me, I agree with the Respondent that although the Federation states that their submissions will be distinct; their focus is on interpreting the same legislative provision on which the Applicants in all six Applications have already provided extensive submissions. The only difference is that it intends to do so from a perspective of fiscal responsibility and accountability, which is not an issue raised in any of the six Applications.

[10] All six Applications raise the following issues: whether the Regulations are *ultra vires* of subsection 117.15(2) of the *Criminal Code*; whether there is an unlawful sub-delegation of authority; whether the term "variants or modified versions" is in breach of section 7 of the *Canadian Charter of Rights and Freedoms*, s 7, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11 [*Charter*] as being too vague, and; whether the Regulations violate the *Canadian Bill of Rights*, SC 1960, c 44.

[11] Fiscal considerations are not relevant to the assessment of whether the OIC is *intra* or *ultra vires*. Although they might feed some interesting discussions, they would bring the debate before the Court to a completely different level. The administrative assessment raised by these six Applications is not concerned with the question as to whether the measure is a good use of public funds. The Court is not even concerned with whether the measure was “necessary, wise or effective in practice” (*Katz Group Canada Inc. v Ontario (Health and Long-Term Care)*, 2013 SCC 64, at para 27).

[12] On the issues that are before the Court, the Federation does not bring useful submissions that are different from those proposed by the six groups of Applicants. As stated by the Respondent, the parties largely agree that the reasonableness standard applies to the *vires* challenge. They agree that the reasonableness review takes its colour from the context, including the legislative context, and the Applicants have already provided submissions to the Court advocating for a “robust” reasonableness review. The six groups of Applicants and the Respondent have already provided lengthy *facta* addressing sections 84(1) and 117.15 of the *Criminal Code*, including their legislative history.

[13] Finally, I also agree with the Respondent that given the lack of particularized submissions on relevant issues not already canvassed by the Applicants in the six proceedings, the Federation’s intervention is not in the interests of justice.

**ORDER in T-569-20 and T-577-20**

**THIS COURT ORDERS that:**

1. The Motions made by the Canadian Taxpayers Federation are dismissed;
2. No costs are granted.

“Jocelyne Gagné”  
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Associate Chief Justice

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-569-20

**STYLE OF CAUSE:** CASSANDRA PARKER and K.K.S. TACTICAL  
SUPPLIES LTD. v ATTORNEY GENERAL OF  
CANADA

**AND DOCKET:** T-577-20

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RODNEY GILTACA, LAURENCE KNOWLES,  
RYAN STEACY, MACCABEE DEFENSE INC., and  
WOLVERINE SUPPLIES LTD. v ATTORNEY  
GENERAL OF CANADA

**RULE 109 MOTIONS IN WRITING CONSIDERED AT OTTAWA, ONTARIO  
PURSUANT TO RULE 369 OF THE *FEDERAL COURTS RULES***

**ORDER AND REASONS:** GAGNÉ A.C.J.

**DATED:** SEPTEMBER 12, 2022

**WRITTEN SUBMISSIONS BY:**

Kerry Boyd FOR THE RESPONDENT IN T-569-20

James Plotkin FOR THE PROPOSED INTERVENER IN T-569-20  
CANADIAN TAXPAYERS FEDERATION

Albert Brunet

Kerry Boyd FOR THE RESPONDENT IN T-577-20

James Plotkin FOR THE PROPOSED INTERVENER IN T-577-20  
CANADIAN TAXPAYERS FEDERATION

Albert Brunet

**SOLICITORS OF RECORD:**

Friedman Mansour LLP  
Ottawa, ON

FOR THE APPLICANTS IN T-569-20

Attorney General of Canada  
Ottawa, ON

FOR THE RESPONDENT IN T-569-20

Gowling WLG (Canada) LLP  
Ottawa, ON

FOR THE PROPOSED INTERVENER IN T-569-20  
CANADIAN TAXPAYERS FEDERATION

Caza Saikeley LLP  
Ottawa, ON

Jensen Shawa Solomon Duguid  
Hawkes LLP  
Calgary, AB

FOR THE APPLICANT IN T-577-20

Loberg Law  
Calgary, AB

Attorney General of Canada  
Edmonton, AB

FOR THE RESPONDENT IN T-577-20

Gowling WLG (Canada) LLP  
Ottawa, ON

FOR THE PROPOSED INTERVENER IN T-577-20  
CANADIAN TAXPAYERS FEDERATION

Caza Saikeley LLP  
Ottawa, ON