

STATEMENT OF ARGUMENT

"There has never been a War on Drugs, there has only ever been a War on People"
Preeminent Global Voice on Substance Addiction: Canadian Dr. Gabor Mate

PART I – OVERVIEW OF POSITION

1. On May 9, 2016, the law branch of the Supreme Court of Canada released a Case Summary on Applicants discrimination claim before the court via their website. The summary inappropriately used the following sentence,

*"Depression and other physical and medical consequences of such an addiction resulted in Mr. James resigning from his position at York in December 2009."*¹

This false statement unfairly prejudiced Applicants claim to the Canadian public and to the honourable judges of the Supreme Court of Canada. It is a patently unreasonable statement Applicant contested in submissions to the Ontario Court of Appeal; to the Supreme Court of Canada and directly to the chief editor of the National Post newspaper Ms. Anne Marie Owens.

2. The sentence rules on the merits of the case which required correction by the SCC judges and not for the law branch of the institution to ignore its inappropriateness and significance in further prejudicing the matter before the court and in the public eye.

3. The sentence unfairly absolves the Respondent and others including the National Post from any responsibility and liability based on the discrimination, defamation, harassment, and poor treatment Applicant has been subjected to over the past 8 years.

4. If Applicant's argument and accompanying Affidavit is not considered an extremely rare circumstance then it confirms the adjudication and administration of this claim is a more regular occurrence than rare, suggesting that Justices', Adjudicators, Law firms, Lawyers, and Respondents can deceive, write false statements, partake in acts of impropriety, collude with each other in order to create impenetrable systemic barriers and all with complete impunity. This fact would be of significant concern and importance to the Canadian public.

5. At this time Applicant's human right to be treated equally and fairly under Section 15 of the Canadian Charter of Rights and Freedoms has been repeatedly violated and infringed upon, not

¹ Case Summary – Supreme Court of Canada dated May 12, 2016

only living as a Canadian citizen but also through the Canadian Judicial system because the one-year limitation period for filing a discrimination claim is a systemic barrier to accessing justice for those who suffer substance use disorders and others, perpetuating unfair discrimination, injustice and abuse, as this case before the court proves.

6. In spite of past Supreme Court of Canada rulings that substance addictions are handicaps, illnesses, diseases, disabilities, if you apply to the Tribunal after the one-year limitation period Applicants claim before the court establishes that you are not protected under section 15 of the Canadian Charter. The dissemination of the sentence confirms the discrimination vulnerability that persons suffering substance use disorders face.

PART II – STATEMENT OF ISSUES

7. Applicant asserts that the use of the statement has prejudiced and discriminated against Applicants human rights claim before the courts on the basis that:

(i) The statement was a Patently Unreasonable Ruling on the Merits of the Case; (ii) The statement was false with no evidence to validate its use; (iii) The statement stereotypes, discriminates and punishes Applicant and others with similar mental health circumstances; (iv) The statement deflects attention away from the one-year limitation period for filing a human rights discrimination claim which was the issue before the court.

PART III – STATEMENT OF ARGUMENT

8. June 23, 2015 Justice Edwards from the Divisional Court of Ontario, in point 3 of his decision rationale inappropriately ruled on the merits of Applicants claim because (not limited to) the issue before the court concerned the one-year time limitation period for filing a claim.

“Eventually, the depression and other physical and medical consequences of such an addiction resulted in Mr. James resigning from his position at York in December 2009”.

9. This was a false closed statement with no room for the reader to interpret beyond what it states. It was therefore a patently unreasonable decision for the honourable Justice to write because (not limited to) there was no evidence to validate his claim.

10. The subsequent June 26, 2015 National Post article defamed, maligned, punished and humiliated Applicant through patently obvious collusion of deceit and “manipulated facts” to ‘paint a false picture’ relieving the Respondent and all others who have committed improprieties,

discriminatory acts and deceitful actions against Applicant and Applicants claim, from liability and responsibility.

11. The harm to Applicant from the decision to include this inappropriate and false statement is immense and irreparable. It prejudiced Applicants claim before the Ontario Court of Appeal, the SCC and the Canadian public because it unscrupulously communicates that Applicant was not discriminated against relegating all submission points and evidence provided by Applicant as redundant. At the Supreme Court of Canada, Applicants claim was unfairly assessed and unreasonably dismissed because the law branch disseminated and justified the ruling on the merits of the case,

“Further to your e-mail of May 9, 2016, I wish to inform you that your views have been noted. I also wish to inform you that the summaries are prepared for information purposes only. They are not sent to the Judges. In this case, the summary is consistent with the lower court decisions”.²

12. The eventual removal of the statement by the SCC registrar on May 17, 2016 – “This will confirm that the case summary has been revised to remove the sentence to which you have objected” – established that the statement was false and its dissemination inappropriate, prejudicial and discriminatory as Applicants claim moved through the Judicial system.³ These actions violate Applicants right to be treated fairly and equally under section 15 of the Canadian Charter of Rights and Freedoms.

13. While Applicants reputation, future prospects and overall health has worsened through the “punishment” of the Judiciary, other non-stigmatized Canadian citizens suffering more acceptable health conditions are not expected to “leave their employment” because of their ill health and as a consequence they are not discriminated against because of their health condition. Instead they are afforded every opportunity to receive treatment, help and support to maximize the quality of their lives in spite of health impediments.

14. **Discrimination of Applicant’s Mental Disabilities:** In early April 2008 two assistant soccer coaches at York University – Bree Carr-Harris and Jamie Teixeira – were informed of

² E-mails between Applicant and Supreme Court of Canada Registrar, 2016, Tab at page

³ E-mails between Applicant and Supreme Court of Canada Registrar, 2016, Tab at page

Applicants poor mental health, including depression, anxiety and a substance use disorder to crack cocaine as confirmed in “notes” from Dr. Steve Melemis; Applicant’s sister Julie (and parents) in her written testimonial letter; Dwight Hornibrook’s testimonial letter, Applicants testimony and Respondent submissions.⁴

15. End of November 2008 Bree Carr-Harris and Jamie Teixeira insincerely excommunicated with Applicant and Applicants family refusing to attend the York University soccer banquet on December 11, 2008, as a punitive, discriminatory method aimed at forcing Applicant into drug rehabilitation earlier than his December 18, 2008 departure date, confirmed in written testimony from Applicants family, Dwight and Chris Hornibrook and Applicant himself.

Dwight Hornibrook testified why the punitive approach was taken, *“We decided to excommunicate with Paul in a desperate coercive measure to force him into treatment immediately. What I was unaware of at the time of conversing with Jamie and Bree in late November of 2008 is that each of them had a hidden agenda on excommunicating with Paul not just because of his health. Jamie had been temporarily released from the York soccer program because he consistently treated Paul differently since he learned of his poor health back in the spring of 2008 and Bree because she was extremely hurt that a romantic relationship with Paul was not going to become a reality”*.⁵

16. The damage psychologically to Applicant as a consequence of the actions of his assistant coaches was immense, not limited to isolation, embarrassment, humiliation and anxiety as other people speculated about what was happening to the York University women’s soccer coach. Had Bree and Jamie not known of Applicants ill health or if Applicants ill health was cancer it is unreasonable to conclude they would have excommunicated with him as a method to “assist his ill health” irrespective of any professional or personal feedback which they were uncomfortable receiving.

17. York University athletic director Ms. Jenn Myers was told by Applicant of his poor mental health in the first week of November 2008 - *“When I wake up in the morning and you may see blue sky, I only see grey clouds”* - and his need for three months leave of absence which Ms. Jenn Myers granted while stating she would need to inform the Employee Wellness Office of his circumstance and that at some point Applicant would be required to provide a Doctor’s note.

⁴ See Application for Leave to Appeal, Paul James, 2016, Tab 10 at pg 72, Tab 19 at pg 107-118

⁵ See Application for Leave to Appeal, Paul James, 2016, Tab 19 at pg 114 - 117

18. Yvonne Simpson from the Employee Wellness Office at York University contacted Applicant through a letter dated February 11, 2009 confirming Ms. Myers knowledge of Applicants poor mental health and her communications with the Employee Wellness Office. In the letter Ms. Simpson states,

*“Our office has been advised that you have been absent from work since December 19, 2008...Please have your treating practitioner complete the enclosed Practitioners Report”.*⁶

19. Applicant’s MD of 30 years completed the York University PRAL form and sent it to the Employee Wellness Office at York dated February 27, 2009 with the written information that Applicant suffered “acute stress reaction” (the number one cause of diagnostic substance addictions) and that Applicant required further support. For the remainder of Applicants employment at York University he received no support or inquiry from the Employee Wellness Office or Jenn Myers as to his health and well-being as admitted to in Respondent submissions.⁷

20. Applicants correspondence from Ms. Yvonne Simpson substantiates Ms. Myers knowledge of Applicants poor mental health and exposes her deceitful testimony in the Respondents submissions and in her email to Applicant on February 8, 2012 where she states,

*“It is very unfortunate that I have not been able to find the time to meet with you in person, for that I apologize... I am truly sorry if you feel there has been a lack of support...Rightly or wrongly based on our conversations I drew the conclusion that you needed to deal with personal issues, and that you wanted some distance between yourself and the program. Without much more information it was the only conclusion I could come to. I see now that this was not correct and that is unfortunate” ...Jenn.*⁸

21. May 2009 shortly after Applicant was released from his GOL TV contract for “no reason” Bree Carr-Harris who worked full time for MLSE’s Toronto FC, through a second excommunication, discriminated against Applicant, again because Applicant could not reciprocate a romantic relationship` with her. Ms. Carr-Harris unfortunately, never returned

⁶ See Application for Leave to Appeal, Paul James, 2016, Tab 11 at pg 76

⁷ See Application for Leave to Appeal, Paul James, 2016, Tab 11 at pg 77-78

⁸ E-mail from Jenn Myers to Applicant, Tab pg

communications or professionally informed York University of her sudden departure punishing, isolating and humiliating Applicant further.⁹

22. In late September 2009 Applicant – distressed at the accumulating discrimination and poor treatment he was receiving as a consequence of York University personnel knowing of his mental disability – called athletic director stating he was going to reluctantly resign his position at the end of the season as a means to alert Jenn Myers and York University that he was in need of help and support not harassment.¹⁰ Two weeks later athletic director requested Applicant formalize his resignation without any inquiry, assistance, help or support to Applicant.

23. December 2009. Applicant returning after only 17 days of rehab to meet a speaking obligation for history department at York University subsequently contacted athletic director and executive director at Sport York requesting a meeting to discuss his health and employment. Entering Sport York offices on December 8, 2009 Applicant was harassed by Gillian McCullough from Sport York, "Jenn hopes you have your head screwed on straight this time". A few minutes later Applicant was told by Jenn Myers in front of Sheila Forshaw that his master soccer coaching position was devolved; Carmine Issaco was being hired as the full time men's soccer coach; while Applicant could apply for the women's position and his application would only be considered with other applicants. Applicant, humiliated and numb at the undignified treatment and discrimination, left the Sport York offices and departed the university on December 31, 2009.¹¹

24. In November 2011 Applicant contacted Jenn Myers and Sheila Forshaw from Sport York to schedule a meeting to discuss the poor treatment Applicant had received during his tenure at York University. A meeting was avoided by both persons.

25. Based on the evidence that was submitted to the Tribunal and lower courts it is patently unreasonable for Justice Edwards to have written in point three of his decision rationale, *"Eventually, the depression and other physical and medical consequences of such an addiction resulted in Mr. James resigning from his position at York in December 2009"*, fraudulently

⁹ Affidavit of Paul James dated July 26, 2016, Tab 7 at pg. 105

¹⁰ Affidavit of Paul James dated July 26, 2016, Tab 7 at pp. 84-85

¹¹ Affidavit of Paul James dated July 26, 2016. Exhibit D, Tab 7 pt. 221-227

disseminating that Applicant was not discriminated against which was overtly deceitful based on the overwhelming evidence before the court which contradicted its use. Any right minded Canadian citizen privy to all the evidence would conclude that Justice Edwards – acting in bad faith – stereotyped, discriminated, and punished Applicant and Applicants claim throughout his decision rationale to unfairly justify the claim being dismissed at the Divisional Court and beyond. The specific deceitful statement in question used by Justice Edwards to inappropriately rule on the merits of the case facilitated the agenda of dismissing Applicants claim through “unscrupulous reasoning” which could be sold onto Canadian society already conditioned to the War on Drugs ideology that persons with substance use disorders should leave their employment.

26. The patently unreasonable statement by Justice Edwards also conveniently facilitated avoidance of consideration of the psychological harm which was inflicted onto Applicant as a consequence of the plain and obvious discrimination he faced at York University because of his mental disability. This thwarts progress on improving the lives of other Canadians facing similar health conditions and similar discrimination and prejudicial experiences.

27. Applicant did not depart York University because he wanted to lose his \$80,000 a year soccer coaching job; never to coach again; write a humiliating E-book with the potential of making a pittance; and to publicly be open about his substance use of the worlds most stigmatized drug, after 30 years of coaching and a lifetime involvement in the sport with no plan for the future, to become unemployed with no unemployment, medical or dental insurance and nowhere to go as a result. It is non-sensical to conclude this, not only from all the evidence before the court but also when considering that the most important social determinants of health and recovery encompass employment, affordability for treatment and good support.

28. The reason Applicant divulged his poor mental health to others in the first place was because he needed support to regain good health and to continue his soccer employment. Applicant did not want to lose his soccer career which was firmly established through Applicant submissions and testimonial evidence from his sister, parents, Dwight and Chris Hornibrook, James West from the Sporting Chance Clinic in England, and Ruben Baler from the National Institute of Drug Abuse. Applicant was not encouraged to stay at York University in spite of his pedigreed soccer background and significant contributions to the York soccer programs success

because the institution did not want him there because of his poor mental health. The poor treatment, discrimination, harassment, excommunication and non-support of his health circumstances were the reasons for Applicants departure.

29. Societal Stigma fuels Self-Stigma onto those persons who suffer the indignity of substance use disorders paralyzing them “at all costs” from seeking help, support and treatment. In 2013 former Toronto Mayor Rob Ford stated to the Canadian media, “I do not use crack cocaine, nor am I an addict of crack cocaine”. A short time later Rob Ford is forced to admit, “Yes, I have smoked crack cocaine. Poignantly, on March 22, 2016 Rob Ford dies of cancer.

30. A few days after the passing of Rob Ford, Patrick Krill wrote an aptly titled editorial for the CNN news network, "Rob Ford died of his more acceptable disease". In the enlightening editorial Krill, posits, “

Fuelling Ford’s trajectory from viciously mocked to politely mourned, his cancer demonstrated how malleable our emotional responses are in light of our moralizations. Rob Ford was, after all, a man who suffered from two life-threatening diseases but garnered sympathy for only one. Perhaps that dichotomy is worth us, as a society, examining”.¹²

31. Applicant after eight years of suffering poor mental health including a substance use disorder to crack cocaine penetrated his own self-stigma in 2008 opening up looking for help and support. Applicant now in 2016 is legitimately a “street person in the making” who is unemployed, unemployable and more isolated than he has ever been. And it is not because of a weak character, poor attitude, immoral values or a lack of effort in trying be a normal person living with a “mental disability”. It is Canada’s societal stigma which has subjected Applicant to discrimination and prejudice at every turn including throughout the judicial process epitomized by the further dissemination of the false sentence in question by the SCC, which has violated Applicants right to be treated equally and fairly under Section 15 of the Canadian Charter of Rights and Freedoms which requires correction by the honourable court.

32. Any right minded Canadian who reads the genuine testimony written by Linda Perlis and Applicant himself in the original submissions to the HRTTO back in 2012/13 would conclude that Justice Edwards and the HRTTO were unreasonable in dismissing Applicants claim. The medical

¹² CNN Article by Patrick Krill, 2016, Tab pg

evidence Ms. Perlis provided, surpasses the cited case law requirement by Respondent counsel at the time, which along with Applicants testimony clearly establishes his mental disability.

33. It is reasonable to discern that Ms. Perlis was writing her testimony in regards to Applicants delay in filing an application with the Tribunal which indicates the causal link which Justice Edwards suggested was absent and therefore fatal to the Application. Why else though would Ms. Perlis be writing the letter to the Tribunal after she states, “***I have been asked to write this letter regarding any delay that existed in Mr. James' claim to the Human Rights Commission.***” The use of the words “extreme crack use” alone, in reference to the period in question, to any person with even just a rudimentary understanding of crack cocaine addiction exceeds a reasonable explanation for the delay in filing a claim.

34. A medical doctor, health care or treating practitioner with integrity would not always write in such a way as the Tribunal and Divisional Court demand. Mental health disorders require patient feedback. Therefore, unless a patient is comatose or hospitalized for 365 days of the year it is highly unreasonable to require such explicit statements or opinions where there is not 100% certainty on what is written. The Respondents cited case law Orlowski vs Apotex using *indicate* is correct, reasonable and fair when adjudicating claims based on substance use disorders because it **demand**s adjudicators to integrate intersecting social factors into the overall adjudication of a claim for this highly segregated, disadvantaged group.

35. Eliminating Applicants significant intersecting social factors of disadvantage from the adjudication process was overtly discriminatory and patently unreasonable. You cannot separate substance use disorders from the social context in which those that suffer live on a day to day basis. Social consequences of a persons substance use are inextricably intertwined in diagnosing, treating, and monitoring those that suffer. A claim filed during the one-year limitation period would be adjudicated with the totality of evidence including any social intersecting factors including paralyzing societal and self stigma.

36. Constant rejection of the Linda Perlis medical evidence for one “contrived” deficiency after another unfairly discriminated against Applicant from accessing fair social justice. Even though Applicant satisfied each “deficient requirement” the Tribunal and Divisional court still refused to consider and acknowledge Applicants social intersecting factors of disadvantage. This

bad faith adjudication not to consider the totality of Applicants claim discriminated and prejudiced against him when compared to those persons who submit within the one year limitation period. This was patently unreasonable and violated Applicants right to be treated fairly and equally under Section 15 of the Canadian Charter of Rights and Freedoms.

37. The full judicial adjudication of Applicants claim establishes that if you suffer from a substance use disorder you experience an appalling amount of inequality, prejudice, discrimination and abuse. And when you submit a legitimate discrimination application after the one-year limitation period you have no human right to be treated equally, fairly, and with dignity and respect which requires correcting and then protecting from the honourable Supreme Court of Canada so that no other Canadian citizen has to live through the absolute nightmare Applicant and his family have experienced.

PART IV – SUBMISSIONS ON COSTS

38. Costs as determined by the Honourable Court.

PART V – ORDER REQUESTED

39. The Applicant, Paul James, respectfully seeks an Order granting the Request for Reconsideration of the Application for Leave to Appeal to the Supreme Court of Canada from the decision of the Divisional Court of Ontario dated June 23, 2015.

All of which is respectfully submitted this 26th Day of July, 2016.

Paul James – Self-Represented Applicant