Court File No: A-427-25

FEDERAL COURT OF APPEAL

B E T W E E N:

ROMAN SLEPCSIK
THE CANADIAN COUNCIL FOR REFUGEES

Appellants
(Applicants in the Federal Court)

and

MINISTER OF PUBLIC SAFETY, MINISTER OF CITIZENSHIP & IMMIGRATION, and THE ATTORNEY GENERAL OF CANADA

Respondents
(Respondents in the Federal Court)

CANADIAN CIVIL LIBERTIES ASSOCIATION and DAVID ASPER CENTRE FOR CONSTITUTIONAL RIGHTS

Interveners

MEMORANDUM OF FACT AND LAW OF THE INTERVENER (Asper Centre)
Pursuant to the Order of Justice Walker, dated April 23, 2026

OVERVIEW

1. By Order dated April 23, 2026, the Court granted leave for the David Asper Centre for Constitutional Rights (the "Asper Centre") to intervene in the above-noted appeal of the Federal Court's judgment in *Slepcsik v. Canada (Citizenship and Immigration)*, 2025 FC 1840,

on the question of whether the impugned provisions of the Immigration and Refugee Protection Act ("*IRPA*")[1] violate s. 12 of the *Canadian Charter of Rights and Freedoms*[2] ["*Charter"*].

2. The nature and scope of the right to be free from cruel and unusual treatment or punishment under s. 12 of the *Charter* has received limited treatment in immigration and refugee law. Outside the detention context, and a brief analysis in the 1992 case of *Canada (Minister of Employment and Immigration) v. Chiarelli*[3], there is no Supreme Court jurisprudence on the application of s. 12 in immigration and refugee law, where the consequences imposed by the state frequently have an air of, and impacts similar to, punishment.
3. In the decision under appeal, the Federal Court concluded that the impugned provisions are neither "punishment" nor "treatment" under section 12 of the *Charter,* and did not, in any case, produce grossly disproportionate effects.
4. In the Asper Centre's submission, the impugned provisions produce effects that constitute "treatment or punishment" within the meaning of s. 12, and produce grossly disproportionate outcomes in reasonably foreseeable cases: the provisions capture conduct that is both harmless and deeply personal; and the revocation of permanent residence undermines human dignity.

PARTS I and II – FACTS AND ISSUES

5. The Asper Centre accepts and adopts the facts as stated by the Applicant and stresses the far-reaching implications of the Court's decision in this matter.
6. The Asper Centre confines its submissions to the question of whether the automatic loss of permanent residence under sections 40.1 and 46(1)(c.1) of the *Immigration and Refugee*

[1] *Immigration and Refugee Protection Act*, SC 2001, c 27.
[2] *Canadian Charter of Rights and Freedoms*, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), c11.
[3] *Canada (Minister of Employment and Immigration) v. Chiarelli*, [1992] 1 S.C.R. 711

Protection Act ("IRPA") and paragraph 228(1)(b.1) of the *Immigration and Refugee Protection Regulations ("IRPR")* amounts to cruel and unusual treatment contrary to s. 12 of the *Charter*.

PART III – ARGUMENT

a. The legislative purpose of the impugned provisions is to punish and deter perceived 'fraud' in refugee claims

7. The Federal Court determined that the principal purpose animating the impugned provisions was to "expedit[e] the processing of refugee protection claims" [4], and not to respond to "abuse or misuse of the refugee process".[5]

8. In the Asper Centre's submission, the Federal Court ran afoul of the Supreme Court's ruling in *Moriarity* by identifying a "very broadly stated" legislative purpose.[6] The Court in *Moriarity* relies on *Carter* for the proposition that:

> The appropriate level of generality, therefore, resides between the statement of an "animating social value" — which is too general — and a narrow articulation, which can include a virtual repetition of the challenged provision, divorced from its context — which risks being too specific: *Carter*, at para. 76.[7]

9. "Efficiency" is an ""animating social value", which "provide[s] no meaningful check on the means employed to achieve it: almost any challenged provision will likely be rationally connected to a very broadly stated purpose".[8]

10. The "main thrust" of the law, assessed within its full context and in alignment with the effects of the legal means to achieve it, is to punish and prevent 'fraudulent' refugee claims.[9] The

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[4] *Slepcsik v. Canada (Citizenship and Immigration)*, 2025 FC 1840 (CanLII) at para 160 [*Slepcsik*].
[5] *Ibid* at para 159.
[6] *R v Moriarity*, 2015 SCC 55 (CanLII), [2015] 3 SCR 485, at para 28 [*Moriarty*]
[7] *Ibid*.
[8] *Ibid*.
[9] *Moriarty, supra* note 6 at para 26.

assessment must account for the fact that those who return to their countries of origin in cases of "change of circumstances" under s. 108(1)(e) do *not* lose their Permanent Residence, despite those grounds also giving rise to cessation under the *Refugee Convention*.[10] The Court below did not grapple with the distinct purpose of the impugned provisions in this context.

b. The impugned provisions constitute 'punishment' under s 12 of the *Charter*

11. In the Asper Centre's submission, the automatic revocation of permanent residence under the impugned provisions is "punishment" within the meaning of s. 12. The meaning of "punishment" under s. 12 of the *Charter* has developed uniquely in relation to criminal offences. In punishment, the state action "(1) . . . is a consequence of conviction that forms part of the arsenal of sanctions to which an accused may be liable in respect of a particular offence, and either (2) . . . is imposed in furtherance of the purpose and principles of sentencing, or (3) . . . has a significant impact on an offender's liberty or security interests".[11]

12. The impugned provisions punish Permanent Residents who were protected persons, by treating a return to the country of persecution as evidence of fraud in the original refugee determination.

c. Alternatively, the impugned provisions constitute 'treatment': a sub-class of Permanent Residents are subject to an active state process in relation to perceived 'fraud'.

13. The combined effect of the impugned provisions amounts to "treatment" within the meaning of s. 12 of the *Charter.* In the Federal Court, Justice Gleeson held that because the *Refugee Convention* itself recognizes cessation on grounds of reavailment, the state is not "responsible for the consequences that flow from the implementation of that regime."[12] On that logic, the

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[10] *IRPA,* at ss 108 (e) and 40.1.
[11] *R. v. K.R.J.*, 2016 SCC 31 (CanLII), [2016] 1 SCR 906 at para 41.
[12] *Slepcsik, supra* note 6 at paras 188-189.

Court reasoned that the alleged "treatment" is in fact the natural consequence of the individual's actions. Per the Court below:

> the consequential loss of PR status is linked to and flows from an affected individual's refugee status, has been implemented for reasons of efficiency, and occurs within the context where processes remain accessible to affected individuals, in my view the Impugned Provisions do not constitute "treatment." [13]

14. The Court's reasoning sidesteps the core of the inquiry: the "treatment" at issue is the loss of permanent residence. Nothing in the *Refugee Convention* requires or suggests a loss of permanent resident status: ss. 108(1)(a-e) of the IRPA mirror the provisions of Article 1 (C) (1-5) of the *Refugee Convention*, and Article 1 (C) states that the "Convention shall cease to apply" to individuals in the circumstances described in sub-Articles 1-5, but only ss. 108(a-d) give rise to a loss of permanent residence.

15. As the Court below acknowledged, it was not until 2012 that the *IRPA* was amended to go beyond "the Convention shall cease to apply" to require the loss of permanent residence for circumstances described under ss. 108(a-d). Individuals who lost their refugee status under the previous regime lost protections against refoulement in the *IRPA*, but did not lose their permanent residence as a result of cessation: prior to 2012, individuals whose refugee protection was cessated under s. 108 (a-d) ceased to be recognized as refugees, but did not lose their permanent residence. The effects of the impugned provisions cannot be said to arise naturally from the efficient implementation of the requirements of the *Refugee Convention*.

16. Further, it is not only Convention Refugees who are vulnerable to cessation and loss of permanent residence under the impugned provisions. Individuals granted protection on non-*Convention* grounds under s. 97 of the *IRPA* are also subject to the provisions: s. 108 provides

[13] *Slepcsik, supra* note 6 at paras 188-189.

that "a person is not a Convention refugee or a person in need of protection, in any of the following circumstances". The apparent limitations of the *Refugee Convention* have no bearing on the status of individuals who acquired Canada's protection for non-*Convention* reasons.

17. Finally, the Court fails to grapple with the fact that while the provisions of *IRPA* s. 108(1) map on to the provisions of Article 1(C), the impugned provisions apply only to ss. 108(1)(a-d), and not to s. 108(1)(e). That is, individuals whose protected person status is cessated pursuant to s. 108(1)(e) do not lose their permanent residence, whereas individuals whose protected person status is cessated pursuant to s. 108(1)(a-d) will. At a minimum, the delta between the effects of the impugned provisions, and the definition of cessation in the Refugee Convention is "treatment" within the meaning of s. 12.

18. Applying the Federal Court's decision in *Canadian Doctors for Refugee Care*, and the Supreme Court's decision in *Rodriguez,* the impugned provisions "intentionally target" a sub-class of Permanent Residents. The revocation of a status previously granted is a "positive action" which constitutes "treatment" within the meaning of s. 12.[14] This is a consequence only for Permanent Residents who have acquired their status by having been granted refugee protection. The impugned provisions treat return to a country of origin where the threat persists as evidence of fraud.

d. The effects of the impugned provisions are cruel and unusual in reasonably foreseeable hypothetical cases

19. The Federal Court's handling of the reasonable hypotheticals presented in the court below is inconsistent with both the Supreme Court's jurisprudence on the role of the reasonable

[14] *Rodriguez v. British Columbia (Attorney General),* 1993 CanLII 75 (SCC), [1993] 3 SCR 519 at p 750 [*Rodriguez*], *Canadian Doctors For Refugee Care v Canada (Attorney General),* 2014 FC 651 (CanLII), [2015] 2 FCR 267, at para 587.

hypothetical rights holder in the s. 12 analysis, and the underlying facts in the case at bar. The Court misapprehended the reported cases of cessation as demonstrations "of the broad circumstances in which a *cessation application might arise and be considered*",[15] and did not grapple with the effects of the impugned provisions in those cases.

20. The role of the reasonable hypothetical rights-holder in the s. 12 analysis is well-established in the Supreme Court jurisprudence. The SCC's recent decision in *Hills* provides an extensive history, justification and defence of the Court's use of reasonable hypotheticals, noting, *inter alia*: "this Court has consistently accepted that punishments can be impugned not only on the basis that they infringe the s. 12 rights of a particular offender, but also on the basis that they infringe those of a reasonably foreseeable offender."[16][17]

21. In effect, it is the nature of the law, not the situation of the rights-holder before the Court, that is in issue in *Charter* litigation.[18] Reasonable hypotheticals allow the Court to examine the law before the illustrative set of facts is raised, preventing future rights violations.[19]

22. A reasonable hypothetical rights-holder's experience of the impugned provision must be reasonably foreseeable. It must arise from the reach of the law and catch conduct that the law could reasonably be expected to catch.[20] Personal characteristics may be considered in the reasonably hypothetical, as long as they are not tailored to create remote or far-fetched examples.[21]

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[15] *Slepcsik, supra* note 6 at para 199. (emphasis added)
[16] *R. v Hills*, 2023 SCC 2. at para 68 [*Hills*].
[17] *Ibid* at para 71; *R. v Nur*, 2015 SCC 15 at para 49 *[Nur]*.
[18] *Nur, supra* note 17; *R. v. Big M Drug Mart Ltd.*, [1985] 1 SCR 295.
[19] *Hills*, *supra* note 16; *Nur*, *supra* note 15.
[20] *Nur*, *supra* note 17.
[21] *Hills, supra note 16* at para 77.

23. In the case at bar, the Federal Court acknowledged this jurisprudence, but unjustifiably treated the reasonable hypotheticals before the Court as demonstrations "of the broad circumstances in which a *cessation application might arise and be considered*",[22] and not as circumstances in which the impugned provisions are automatically triggered by operation of law. In effect, the Court introduced its own hypothetical for the reasonable hypothetical rights holders: the Court concluded that the impugned provisions might not apply, because the cessation applications could be refused. On this basis, the Court avoided a meaningful assessment of gross disproportionality for the reasonable hypothetical rights holders.

24. The Supreme Court has repeatedly affirmed that a law that gives rise to grossly disproportionate outcomes in some cases offends s. 12 of the *Charter*. The impugned treatment in this case (loss of permanent residence) applies automatically after a finding of re-availment under 108(1)(a). There is therefore a predictable outcome for rights-holders subject to the impugned provisions, and the situation of rights-holders who are foreseeably affected by the impugned provisions are justifiably central in this court's gross disproportionality inquiry.

25. Further, the reasonable hypotheticals before the Federal Court were drawn from reported cases and affidavits of lawyers representing individuals whose status was in fact cessated. They were individuals whose refugee status is cessated for re-availment arising from visits to the country of origin for significant family events. Included are individuals who fled persecution from non-state actors and took measures to protect themselves during their visits to the country of origin. They have been in Canada for eight to 12 years, and have significant family, professional and community ties to Canada. These scenarios from reported cases are amply echoed in the Applicants' affidavit evidence from individuals and lawyers regarding actual cessation

[22] *Slepcsik, supra* note 6 at para 199.

proceedings.[23] They were not, as the Federal Court described them "circumstances in which a cessation application might arise and be considered".[24]

e. The impugned provisions are incompatible with human dignity

26. Finally, the Federal Court erred in its approach to the gross disproportionality analysis. The Court at first instance summarily concluded that its assessment that the impugned provisions were not grossly disproportionate led inexorably to the conclusion that the provisions are "not intrinsically incompatible with human dignity".[25]

27. In interpreting the *Charter*, the Supreme Court of Canada has recognized that "respect for the inherent dignity of the human person" is a value essential to a free and democratic society.[26] All the rights guaranteed by the *Charter* have as their "lodestar the promotion of human dignity."[27]

28. Human dignity, per the Supreme Court's holding in *R v Morgentaler,* requires "the right to make fundamental personal decisions without interference from the state".[28] As the Supreme Court noted in *Blencoe:*

> Dignity has never been recognized by this Court as an independent right but has rather been viewed as finding expression in rights, such as equality, privacy or protection from state compulsion. In cases such as *Morgentaler*, *Rodriguez and B. (R.)*, [1995] 1 S.C.R. 315, dignity was linked to personal autonomy over one's body or interference with fundamental personal choices. Indeed, dignity is often involved where the ability to make fundamental choices is at stake.[29]

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[23] Applicants' further memorandum of Fact and Law in Applicants' Record at paras 6-19.
[24] *Slepcsik, supra* note 6 at para 199.
[25] *Slepcsik, supra* note 6 at para 201.
[26] *R v. Oakes*, 1986 CanLII 46 (SCC), [1986] 1 SCR 103.
[27] *R. v. Kapp*, 2008 SCC 41 at para 21.
[28] *R v. Morgentaler*, 1988 CanLII 90 (SCC), [1998] 1 SCR 30 at p. 166.
[29] *Blencoe v. British Columbia (Human Rights Commission),* 2000 SCC 44 (CanLII), [2000] 2 S.C.R. 307 at paras 76-78 [*Blencoe*].

29. This aspect of human dignity is what R James Fyfe calls the "dignity-as-liberty" framework: human dignity is understood as "a function of human autonomy" or as being tied "to the freedom to make the various life choices, decisions and preferences that enable humans to shape their lives, develop and gain understanding".[30]

30. In the case at bar, the impugned provisions undermine refugees' human dignity by constraining their capacity to make decisions of fundamental personal importance. Under the impugned provisions, decisions to care for an ailing family member in the country of origin, to see one's parent on their death bed, to be present at the funeral of a beloved grandparent, or get married in accordance with one's religious or cultural traditions, come with the potential for catastrophic consequences.[31]

31. It is the submission of the Asper Centre that it is not consistent with human dignity for the state to impose severe consequences for the conduct attracting loss of permanent residence in this case. A punishment that is neither excessive, nor inherently problematic, may still be cruel and unusual if it is imposed in relation to conduct that is fundamentally personal: the conduct attracting revocation of permanent residency includes voluntary re-availment (i.e. a visit to the country of origin). In practice, the conduct attracting the state treatment – loss of permanent residence – is often a visit to a dying loved one, a marriage or a funeral.

f. The Gross Disproportionality Framework developed by the Supreme Court in Boudreault and Hills is adaptable to the refugee and immigration law context

[30] R James Fyfe, "Dignity as Theory: Competing Conceptions of Human Dignity at the Supreme Court of Canada" (2007) 70 *Saskatchewan Law Review* 1, at p.3.

[31] For example, see *X (Re)*, 2014 CanLII 66637 (CA IRB); *X (Re)*, 2016 CanLII 102866 (CA IRB); *X (Re)*, 2018 CanLII 97568 (CA IRB); *X (Re)*, 2019 CanLII 132742 (CA IRB); *X (Re)*, 2022 CanLII 138139 (CA IRB).

32. On the test developed in the criminal law context, a court assessing a treatment or punishment for gross disproportionality will analyze: (1) the scope and reach of the impugned provisions; (2) the effects of the punishment on the actual or a hypothetical rights-holder; and (3) whether the punishment was founded on recognized sentencing principles.[32] The core question is: is this treatment or punishment grossly disproportionate, having regard to its triggers, its impacts, and social expectations. In our submission, the axes across which the Court assesses gross disproportionality should be the same whether the object of analysis is punishment or treatment.

a. Applying the Gross Disproportionality Test, Prong 1: The Scope and Reach of the Offence

33. The first prong of the gross disproportionality analysis is described by the SCC in *Hills* as an assessment of the scope and reach of the offence.[33] It is an assessment of the conduct captured by the provision that triggers the impugned treatment or punishment. It is a "major feature" of the gross disproportionality analysis.[34]

34. The application of this prong to the conduct captured by various mandatory minimum sentencing provisions is particularly apt to case at bar. The SCC notes that mandatory minimum sentences for offences "that can be committed in many ways and under many different circumstances by a wide range of people" will be vulnerable to constitutional challenge.[35] In the case at bar, this prong enables an assessment of the type and range of conduct that attracts

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[32] *R. v. Boudreault*, 2018 SCC 58 at paras 47-48; *R. v. Hills*, 2023 SCC 2 at para 122; *R. v. Smith*, 1987 CanLII 64 (SCC), [1987] 1 S.C.R. 1045, at p. 1072; *R. v. Nur*, 2015 SCC 15 at para. 58 and *R v Lloyd*, 2016 SCC 13 at paras 26-33. Note: In *Boudreault*, the first factor is phrased as whether the punishment was necessary to achieve a valid penal purpose. The formulation in *Hills* is preferred in this analysis.
[33] *R. v. Hills*, 2023 SCC 2.
[34] *R. v. Hills*, 2023 SCC 2 at para 125.
[35] *R v Lloyd*, 2016 SCC 13 at para 3. See also paras 24, 27 and 35-36.

the application of the cessation provisions for re-availment, triggering the revocation of permanent residence.

35. Two problems emerge: first, as is the case with the mandatory minimum sentencing provisions, the conduct giving rise to cessation for re-availment varies widely. In enacting the provisions, then Minister Jason Kenny highlighted the fraudulent abuse of Canada's refugee determination system. However, the jurisprudence and Applicant's record demonstrate that visits to the country of origin for funerals, marriages or births may also trigger cessation for re-availment, and thus, the loss of permanent residence. In those cases, there is no moral culpability, no harm to anyone, and yet the treatment imposed is harsh and dramatic. The same harsh treatment applies to all conduct giving rise to re-availment; the revocation of permanent residence is grossly disproportionate.

36. The second problem is that much of the punishment-attracting conduct is not a justifiable target of state intervention. The cases that have shaped the s.12 jurisprudence have related to criminal conduct. In the case at bar, the first prong of the analysis raises the question of whether the conduct itself can justifiably attract coercive treatment or punishment by the state. It is inconsistent with human dignity for the state to impose severe consequences for the conduct attracting loss of permanent residence in immigration and refugee law context.

b. Applying the Gross Disproportionality Test, Prong 2: The effects of the punishment

37. The second prong of the gross disproportionality analysis turns the focus to the impact of the impugned punishment on affected individuals. At this stage of the analysis, the SCC has recognized that the personal characteristics of a reasonably foreseeable rights-holder may be relevant.[36] In *Quebec (Attorney General) v. 9147-0732 Québec inc.*, the SCC clarified that the

[36] *R. v. Hills*, 2023 SCC 2.

purpose of s. 12 is "to prevent the state from inflicting physical or mental pain and suffering through degrading and dehumanizing treatment or punishment. It is meant to protect human dignity and respect the inherent worth of individuals".[37]

38. In the case at bar, the revocation of permanent residence has dramatic and wide-ranging impacts on refugees' human dignity. The reasonably foreseeable rights-holder is a survivor of trauma, possibly managing Post-Traumatic Stress Disorder. She has overcome considerable barriers to settle in Canada, learn a new language, make social connections, get re-licensed in her profession, and build a family and a community.

39. For this individual, the effects of the impugned provisions are nothing short of an upheaval of every aspect of life: loss of the right to enter and remain in Canada, and therefore, to remain in her home, with her community and her family; loss of the right to work; and loss of many social benefits.[38] The initiation of cessation proceedings with the threat of permanent residence revocation imposes extraordinary psychological stress, exacerbating pre-existing trauma.[39]

40. These effects are deeply connected to her dignity: regardless of how long she has been in Canada, and how genuine her protection needs were and are, her humanity is not recognized. She is treated differently than any other permanent resident who did not arrive in Canada as a refugee.

c. Applying the Gross Disproportionality Test, Prong 3: Recognized Principles

41. The third prong of the gross disproportionality analysis is whether punishment was founded on recognized sentencing principles. Sentencing principles contain purposes for punishing a

[37] *Quebec (Attorney General) v. 9147-0732 Quebec inc.*, 2020 SCC 32 (CanLII), [2020] 3 SCR 426 at para 51 (emph added).
[38] *Gnanapragasam v. Canada (Public Safety)*, 2022 FC 1595 (CanLII), at para 34.
[39] See Applicant's Further Memorandum of Fact and Law at paras 6-19.

person guilty of criminal conduct.[40] Similarly, the *IRPA* provides objectives for the Canadian refugee system. Just as a grossly disproportionate sentence may be a cruel and unusual punishment, loss of status or removal from Canada under the *IRPA* for reasons inconsistent with the Act's refugee-related objectives may be cruel and unusual treatment.[41]

42. The refugee-related purposes of the *IRPA* include fulfilling Canada's international legal obligations with respect to refugees and facilitating the reunification of refugees with their family members in Canada.[42] Canada's primary international legal obligations to refugees are contained in the United Nations' *Convention Relating to the Status of Refugees* (the "*Convention*"), which includes Article 34 that parties to the *Convention* "shall as far as possible facilitate the assimilation and naturalization of refugees".[43] The impugned provisions undermine that principle entirely.[44]

B. Conclusion on Gross Disproportionality

43. Per the SCC's jurisprudence on s. 12, a grossly disproportionate outcome in a reasonably foreseeable case offends s. 12 of the *Charter.* On the basis of the conduct captured by the re-availment provisions, and the severity of the treatment or punishment, the Asper Centre submits that the revocation of permanent residence is grossly disproportionate to what is necessary, in the case of the hypothetical litigants whose facts are documented in recorded caselaw, and in the affidavits in the Applicant's record. These cases ground a strong argument

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[40] *R. v. Hills*, 2023 SCC 2 at para 110.
[41] *R. v. Nur*, 2015 SCC 15 at para 39, citing *R v Smith*, [1987] 1 SCR 1045 at 1073; *Canada (Minister of Employment and Immigration) v Chiarelli*, [1992] 1 SCR 711 at 735.
[42] *Immigration and Refugee Protection Act*, SC 2001, c 27, ss 3(2)(b) and 3(2)(f) [*IRPA*].
[43] United Nations, "Convention Relating to the Status of Refugees: Status as at 11-28-2023 09:15:35 EDT" (November 28, 2023), online: https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&clang=_en#top.
[44] *R v. Gerbrandt*, 2021 ABCA 346 at para 73.

that the impugned provisions impose punishment or treatment that is cruel and unusual, and offend s. 12 of the *Charter*.

PART IV – ORDER SOUGHT

44. The Asper Centre takes no position on the outcome of the application.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 25th day of May 2026.

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V. List of Authorities

Statutes, Regulations, International Law

1. *Canadian Charter of Rights and Freedoms*, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), c11.
2. *Immigration and Refugee Protection Act*, SC 2001, c 27
3. United Nations, "Convention Relating to the Status of Refugees: Status as at 11-28-2023 09:15:35 EDT" (November 28, 2023), online: https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&clang=_en#top

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1. *Blencoe v. British Columbia (Human Rights Commission),* 2000 SCC 44 (CanLII), [2000] 2 S.C.R. 307
2. *Canada (Minister of Employment and Immigration) v. Chiarelli*, [1992] 1 S.C.R. 711
3. *Canadian Doctors For Refugee Care v Canada (Attorney General),* 2014 FC 651 (CanLII), [2015] 2 FCR 267
4. *Gnanapragasam v. Canada (Public Safety)*, 2022 FC 1595 (CanLII)
5. *Quebec (Attorney General) v. 9147-0732 Quebec inc*., 2020 SCC 32 (CanLII), [2020] 3 SCR 426
6. *R v Lloyd*, 2016 SCC 13
7. *R v Moriarity*, 2015 SCC 55 (CanLII), [2015] 3 SCR 485
8. *R v. Gerbrandt*, 2021 ABCA 346
9. *R v. Morgentaler*, 1988 CanLII 90 (SCC), [1998] 1 SCR 30 at p. 166
10. *R v. Oakes*, 1986 CanLII 46 (SCC), [1986] 1 SCR 103
11. *R. v Hills*, 2023 SCC 2.
12. *R. v Nur*, 2015 SCC 15
13. *R. v. Big M Drug Mart Ltd.*, [1985] 1 SCR 295.
14. *R. v. Boudreault*, 2018 SCC 58
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20. *X (Re)*, 2014 CanLII 66637 (CA IRB)
21. *X (Re)*, 2016 CanLII 102866 (CA IRB)
22. *X (Re)*, 2018 CanLII 97568 (CA IRB)
23. *X (Re)*, 2019 CanLII 132742 (CA IRB)
24. *X (Re)*, 2022 CanLII 138139 (CA IRB)

Secondary Sources

1. R James Fyfe, "Dignity as Theory: Competing Conceptions of Human Dignity at the Supreme Court of Canada" (2007) 70 *Saskatchewan Law Review* 1

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FEDERAL COURT OF APPEAL

BETWEEN:

ROMAN SLEPCSIK

Appellant (Applicant in the Federal Court)

and

MINISTER OF CITIZENSHIP AND IMMIGRATION, MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS, and THE ATTORNEY GENERAL OF CANADA

Respondents (Respondents in the Federal Court)

MEMORANDUM OF FACT AND LAW OF THE INTERVENER (DAVID ASPER CENTRE FOR CONSTITUTIONAL RIGHTS)

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Counsel for the Proposed Intervener
David Asper Centre for Constitutional Rights

Court File No. A-427-25

FEDERAL COURT OF APPEAL

BETWEEN

ROMAN SLEPCSIK

Appellant (Applicant in the Federal Court)

-and-

MINISTER OF CITIZENSHIP AND IMMIGRATION, MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS, and THE ATTORNEY GENERAL OF CANADA

Respondents (Respondents in the Federal Court)

SOLICITORS' CERTIFICATE OF SERVICE

I, Erin Simpson and Kassandra Neranjan, Solicitor, certify that I caused the Respondent Minister of Citizenship and Immigration, Minister of Public Safety and Emergency Preparedness, and the Attorney General of Canada to be duly served with the attached notice of intervention by email to the Department of Justice at agc_pgc_toronto.imm@justice.gc.ca on May 25, 2026.

The Appellant was also served by email to Barbara Jackman at barb@bjackman.com, Prasanna Balasundaram at law.dls@utoronto.ca, and Asiya Hirji at asiya.hirji@utoronto.ca on May 25, 2026 and the counsel for the Intervener CCLA at jswaisland@landingslaw.com and aimrie@landingslaw.com on May 25, 2026.

Dated at Toronto this 25th day of May 2026.

Erin Simpson

Barrister & Solicitor

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Outlook

A-427-25: Memorandum of Fact & Law

From Nabila Kalid Abdurhim <nkabdurhim@landingslaw.com>

Date Mon 2026-05-25 5:01 PM

To DoJ Service (AGC_PGC_Toronto.IMM@justice.gc.ca) <agc_pgc_toronto.imm@justice.gc.ca>; Barbara Jackman <barb@bjackman.com>; law.dls@utoronto.ca <law.dls@utoronto.ca>; Asiya Hirji <asiya.hirji@utoronto.ca>; Jackie Swaisland <jswaisland@landingslaw.com>; Alison Imrie <aimrie@landingslaw.com>

Cc Kassandra Neranjan <kneranjan@landingslaw.com>; Erin Simpson <esimpson@landingslaw.com>

1 attachment (360 KB)

2026 05 25-SLEPCSIK-Memorandum of Fact & Law.pdf;

Dear all,

Please find attached the Memorandum of Fact & Law for the proposed intervener, David Asper Center for Constitutional Rights, with respect to the above noted matter (ROMAN SLEPCSIK V MCI ET AL) submitted to you on behalf of counsel for the proposed intervener: Erin Simpson and Kassandra Neranjan.

Sincerely,

Nabila Abdurhim
Legal Assistant
(they/them)
Landings.
Tel: +1-416-480-6567 *Note New Direct Phone Number*
nkabdurhim@landingslaw.com
landingslaw.com
25 Adelaide St. E, Suite 1414, Toronto, Ontario, M5C3A1

Outlook

Réponse automatique - Automatic reply: A-427-25: Memorandum of Fact & Law

From # TOR Immigration Court <TORJUSTICEIMMIGRATION@justice.gc.ca>
Date Mon 2026-05-25 5:02 PM
To Nabila Kalid Abdurhim <nkabdurhim@landingslaw.com>

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