COURT OF APPEAL OF YUKON

Citation: *McGinty v. Yukon (Director of Mental Wellness and Substance Use Services)*, 2024 YKCA 10

Date: 20240808
Docket: 24-YU915

Between:

Desmond Delmar McGinty

Appellant

And

The Director of Mental Wellness and Substance Use Services, Ontario Shores Centre for Mental Health Sciences, and the Attorney General of Canada

Respondents

Before: The Honourable Mr. Justice Butler
(In Chambers)

On appeal from: A disposition of the Yukon Review Board, dated November 17, 2023, with reasons for disposition provided on February 16, 2024.

Oral Reasons for Judgment

Counsel for the Appellant (via videoconference):	G. Johannson-Koptyev
Counsel for the Respondent, Director of Mental Wellness and Substance Use Services (via videoconference):	S. Bailey K. McGill
Counsel for the Respondent, Ontario Shores Centre for Mental Health Sciences (via videoconference):	J. Szabo
Counsel for the Respondent, Attorney General of Canada (via videoconference):	W. McDiarmid

Counsel for the Proposed Intervenor, Yukon Review Board (via videoconference):	S. Stikeman
Place and Date of Hearing:	Whitehorse, Yukon August 6, 2024
Place and Date of Judgment:	Whitehorse, Yukon August 8, 2024

Summary:

The appellant applies for an order, pursuant to Rules 12 and 33 of the Yukon Court of Appeal Rules, to amend the style of cause by removing the Yukon Review Board (the "Board") as a party to the appeal. The Board applies for leave to intervene in the underlying appeal. The appellant, an Indigenous person who was found not criminally responsible by reason of mental disorder ("NCRMD") with respect to charges contrary to ss. 264.1(1)(a) and 88 of the Criminal Code, challenges the Board's disposition to continue his detention at Ontario Shores Centre for Mental Health Sciences ("Ontario Shores") in Whitby, Ontario. The appellant argues that the Board erred by: (i) misapprehending the evidence before it in the latest disposition hearing; (ii) failing to meaningfully incorporate Gladue principles in the proceedings; and (iii) naming the Director of Mental Wellness and Substance Use Services (the "Yukon Director") as a party to the proceedings. The Board seeks leave to make submissions on its statutory powers and jurisdiction and its specialized inquisitorial procedures and policies. The Board's intervenor application is opposed by the appellant and partially supported by the Yukon Director, who submits that the Board should be allowed to intervene only in relation to the third ground of appeal.
Held: the appellant's application to amend the style of cause is granted—the Board was mistakenly named in the notice of appeal and is not a proper party to the appeal. With respect to the Board's intervenor application, this Court may benefit from the Board's submissions with respect to the second and third grounds of appeal. The first ground of appeal does not properly involve a public law issue on which the Board could offer a useful perspective for the benefit of the Court. It is also difficult to see how any submissions it may make regarding potential misapprehension of evidence would offer assistance to the Court on an issue of public interest, as opposed to questions about the assessment of facts and risk applicable to this case. On the other hand, the Board is uniquely positioned to offer its specialized expertise on the application of Gladue principles within the regional context of the Yukon, as well as its interpretation of its own jurisdiction as reflected in its practice to name parties.

[1] **BUTLER J.A.**: There are two applications before the Court:

a) The appellant applies for an order, pursuant to Rules 12 and 33 of the Yukon *Court of Appeal Rules*, 2005 [*Rules*], that the Yukon Review Board (the "Board") be removed as a party to the appeal, and that the style of cause be amended accordingly. The appellant concedes that he mistakenly named the Board as a party in the notice of appeal; and

b) The Board applies for an order, pursuant to Rule 36, that it be granted leave to intervene on condition that: it be permitted to file written submissions and present oral submissions in respect of its statutory

powers and jurisdiction, as well as the specialized inquisitorial procedure and practice it has adopted and followed; and that no costs be awarded for or against the Board.

[2] The appellant's application to amend the style of cause to remove the Board as a party is not contentious. The Board is not a proper party to the appeal and that order is granted.

[3] The Board's application for an order for intervenor status is more contentious. The application is opposed by the appellant, and partially supported by the respondent, the Director of Mental Wellness and Substance Use Services (the "Yukon Director"). The other parties take no position on the application.

Background

[4] The appellant is a 38-year-old Indigenous male from the Selkirk First Nation. He has an extensive criminal record and suffers from highly complex mental health issues. His diagnoses are compounded by underlying historical factors, including developmental trauma, neglect, conduct disorder, and multiple head injuries.

[5] On March 25, 2020, in the midst of what appeared to be a substance-induced psychosis, the appellant threatened his roommate and later a staff member with a knife at a residential resource home in Whitehorse. After his arrest, the appellant entered guilty pleas to having committed offences contrary to ss. 264.1(1)(a) and 88 of the *Criminal Code*, R.S.C. 1985, c. C-46 [*Code*].

[6] A psychiatric assessment conducted on June 2, 2020 led the Crown to apply for the appellant to be found not criminally responsible on account of mental disorder ("NCRMD"). Despite the appellant's oppositions, Justice Cozens granted the Crown's application on January 25, 2021, and referred the matter to the Board for disposition pursuant to ss. 672.45–47 of the *Code*.

[7] After a series of appearances before the Board on February 18, June 14, and June 23, 2021, the appellant was granted a one-year conditional discharge on

June 30, 2021. Although the appellant's mental condition continued to represent a significant threat to public safety, the Board was of the view that the risks could be managed effectively by way of a conditional discharge and the appellant's compliance with his disposition terms and Board-imposed treatment conditions. On December 14, 2021, the Board permitted the Yukon Director to place the appellant in the same residential resource home where the index offences occurred, on conditions aimed at managing the public safety risk posed by his mental disorder.

[8] On January 20, 2022, an early review hearing was held in response to multiple breaches of the risk management conditions of his disposition order committed by the appellant. The Board determined that community living was no longer a viable option for the management of the public safety risk posed by the appellant's condition, and ordered him to be detained in custody at a forensic psychiatric hospital pursuant to s. 672.54(c) of the *Code.* The appellant was transferred to the Ontario Shores Centre for Mental Health Sciences ("Ontario Shores") located in Whitby, Ontario, where he continues to reside.

[9] After a delayed annual review hearing held on November 17, 2023, the Board ordered the appellant to remain in custody at Ontario Shores on substantially the same conditions as those set out in his disposition order of January 20, 2022 (the "Order"). Mr. McGinty's appeal is from the Order. In light of the unusual nature of this intervenor application, I will summarize the Board's reasons.

Reasons for the Board's November 17, 2023 Decision

[10] In the reasons for disposition dated February 16, 2024 (the "Reasons"), the Board relied on a comprehensive report from Ontario Shores, dated November 10, 2023 (the "Report"), which was the most up-to-date evidence concerning his current risk profile. The Board found the risk assessment analysis to be "reasonable and well-founded" and the best evidence of his risk at the time of the hearing.

[11] The Report contained an HCR-20 risk assessment checklist—a widely used risk assessment tool consisting of 20 criteria across three primary areas: historical factors; clinical factors; and risk management factors.

[12] The Report identified the appellant's significant risk factors as including recurring use of violence, neurodevelopmental issues, intellectual disability, major mental illness, substance misuse, interpersonal conflict, intergenerational trauma, and non-compliance with therapeutic treatment and supervision. From this, the Board noted that the appellant will likely face a life-long struggle with his neurodevelopmental deficits, which contributes to his impulsive behavior, substance use issues, and resulting violence.

[13] The Report noted the appellant's long-standing neurodevelopmental deficits to have likely exacerbated his lack of insight into his psychosis diagnosis, impairing his compliance with his pharmacological treatment. However, the Report commended the appellant's therapeutic progress, successful transition into a less secure hospital unit, improved openness to rehabilitation and increased awareness of the impact of substance use on his behavior. Nevertheless, the Board considered the appellant's impaired insight as a significant factor in his risk assessment.

[14] Turning to risk management, the Report provided a prospective risk assessment of the appellant's mental condition, and recommended that he remain in custodial disposition until he achieves greater therapeutic progress at Ontario Shores. The Report cautioned against his premature release, as it would likely lead to mental destabilization and eventual violence. The Board accepted the Report's public safety prognosis in light of the appellant's criminal record and history of violence. The Board agreed that the appellant requires more time to gain "greater insight into and control over the various factors of his condition that contribute to his public risk profile."

Amended Notice of Appeal

[15] In his amended notice of appeal dated June 5, 2024, the appellant seeks to overturn the Order and have this Court order his absolute discharge, or alternatively, a conditional discharge on terms deemed appropriate pursuant to ss. 672.54(a), (b), and 672.78 of the *Code*.

[16] The amended notice of appeal advances three grounds of appeal, alleging that the Board erred by:

a) misapprehending the evidence before it on November 17, 2023;

b) failing to meaningfully incorporate *Gladue* principles in the proceedings; and

c) naming the Yukon Director as a party to the proceedings.

[17] The Board filed this intervenor application on June 24, 2024.

Legal Framework

[18] There are two routes to intervenor status: (1) where the decision could directly impact on the applicant; or (2) the case raises issues involving public interests and the applicant brings a different and useful perspective to those issues that will be of assistance to the Court: *Commission Scolaire Francophone du Yukon v. Procureure Générale du Yukon*, 2011 YKCA 10 at paras. 10–11 (Chambers); *Dickson v. Vuntut Gwitchin First Nation*, 2021 YKCA 3 (Chambers). The applicant in this case applies under both grounds.

[19] This Court looks to the jurisprudence of the Court of Appeal for British Columbia for guidance on applications for intervenor status: *Commission Scolaire* at para. 9; *R. v. Hadvick*, 2023 YKCA 8 at para. 27 (Chambers). As Justice Groberman noted in *Ross River Dena Council v. Government of Yukon*, 2012 YKCA 14, nothing in the *Rules* "suggests this Court's practice should differ from that of the British Columbia Court of Appeal" on the issue of whether to grant leave to intervene: at para. 13; see also *Hadvick* at para. 27.

[20] The decision to grant leave to intervene is discretionary: *Hadvick* at para. 28; *PHS Community Services Society v. Attorney General of Canada*, 2008 BCCA 441 at para. 16 (Chambers).

[21] In *Equustek Solutions Inc. v. Google Inc.*, 2014 BCCA 448 (Chambers), Justice Groberman described the proper approach for the Court to take when considering both bases for intervention:

> [7] Few prospective intervenors can demonstrate a direct interest in litigation. More commonly, prospective intervenors seek to present argument on the basis that they are particularly well-placed to assist the Court by providing a special perspective on an issue of public importance.
>
> [8] The two different bases for intervention call for somewhat different approaches by the Court. Where a person is directly affected by an appeal, the focus will be on the interests of the prospective intervenor and on whether fairness dictates that the person have the opportunity to make submissions before the Court. Where the intervention is on the basis of public interest, the Court is not concerned with fairness to the intervenor, but rather with the comprehensiveness of the resources available to it on the appeal. Its concern will be with the advisability of obtaining submissions that go beyond those that the parties can effectively make. In allowing persons to intervene on appeals on this second basis, the Court is attempting to ensure that important points of view are not overlooked. Intervenors on this basis must demonstrate that it is in the Court's interest (or, more broadly, in the public interest), rather than their own, for them to be heard.
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> [9] The scope for such interventions is very limited. While the intervenor must be able to present a perspective that is not already before the Court, it must not expand the litigation by raising matters that are not already part of it. Further, it must not attempt to take over or "hijack" the litigation by changing its focus to an issue that is peripheral to the case as it is presented. The niche that may be occupied by an intervenor is, therefore, necessarily a very narrow one…

[22] The factors to be considered when an applicant seeks intervenor status on the public interest basis were summarized in *British Columbia Civil Liberties Association v. Canada (Attorney General)*, 2018 BCCA 282 at para. 14 (Chambers):

a) Does the proposed intervenor have a broad representative base?

b) Does the case legitimately engage the proposed intervenor's interests in the public law issue raised on appeal?

c) Does the proposed intervenor have a unique and different perspective that will assist the Court in the resolution of the issues?

d) Does the proposed intervenor seek to expand the scope of the appeal by raising issues not raised by the parties?

[23] Where an applicant's interests appear to align with one of the parties on appeal, the Court may still grant intervenor status to the applicant if it provides a unique perspective that might assist the Court in resolving the appeal: *Araya v. Nevsun Resources Ltd.*, 2017 BCCA 402 (Chambers).

Positions of the Parties

Applicant

[24] The Board was created pursuant to Part XX.1 of the *Code*, with the mandate to make and review dispositions concerning an accused in respect of whom a verdict of NCRMD, or unfit to stand trial, is rendered.

[25] The Board acknowledges the absence of statutory authority granting it status to intervene in the appeal. However, it relies on *R. v. Carlyle*, 2018 YKSC 45, in support of its position that it be allowed to make submissions on two issues:

1) The Board's statutory powers and jurisdiction; and

2) The specialized inquisitorial procedures and policies adopted by the Board.

[26] The Board emphasizes that its application is made without the benefit of the appellant's factum and says its arguments are necessarily somewhat general as it can only speculate as to the arguments the appellant may advance.

[27] The Board argues that it should be granted intervenor status on both bases recognized in the jurisprudence. It submits that it has a direct interest in the appeal that is engaged by all three grounds of appeal in the amended notice of appeal. All three issues concern the Board's specialized procedural and inquisitorial process, the purpose of which is to balance the protection of the public with the individual liberty rights of the offender. The Board also asserts that the issues raised engage a matter of public interest, as the Court's ruling could have broader implications for similarly situated review boards across the country.

[28] With respect to the first ground of appeal, the Board submits that it can provide useful insights to the Court on the Board's specialized, inquisitorial process.

The Board submits that it engages in an active, fact-finding process when determining the appropriate disposition for offenders based on their mental state and risk to public safety. The Board draws heavily upon the expertise of its members in making informed decisions about complex mental health issues and says the Court would benefit from submissions about its process.

[29] Regarding the second ground of appeal, the Board says the Court would benefit from submissions respecting its application of the *Gladue* principles in the cultural and regional context of the Yukon, particularly with respect to the implementation of hospital detention and community-based conditions for Indigenous offenders. It notes as well that the Yukon presents the Board with different challenges compared with review boards elsewhere in Canada as there is frequently a need to place offenders in facilities outside of the territory. The Board submits that it can bring a valuable and unique perspective by presenting the Court with information concerning:

i. The Board's specialized expertise in mental health law, experience with risk assessment and management, procedural insights; and

ii. The needs and circumstances of vulnerable individuals in the Yukon, including considerations for Indigenous offenders.

[30] Finally, with respect to the third ground of appeal, the Board submits that its practice in naming parties to a proceeding relate to its broader powers and procedures. The Board says that it will not make submissions about the appropriateness of the parties named in this proceeding. Rather, it intends to make general submissions about its practice.

[31] The Board submits that it is appropriate to limit the scope of its submissions to addressing only the Board's "jurisdiction and general practice and procedure". It will not make substantive submissions regarding the merits of the underlying appeal. The Board asks to make both written and limited oral submissions.

Appellant

[32] The appellant opposes the granting of the intervenor application on the basis that the Board's interests are adequately represented by the other parties to the appeal and that its perspective would be duplicative, rather than unique. The appellant argues that the Attorney General of Canada (the "AG") and the Yukon Director are sufficiently knowledgeable of the Board's jurisdiction and general practices to make submissions regarding its inquisitorial procedure and treatment of evidence on disposition hearings. Similarly, the appellant submits that Ontario Shores possesses the requisite expertise to answer questions touching on the intersection between mental health and the law. Moreover, the appellant himself is represented by counsel that can speak to the needs and circumstances of Indigenous offenders in the Yukon Territory.

[33] Referencing *R. v. Neve*, 1996 ABCA 242, at para. 16, the appellant emphasizes that granting intervenor status, particularly in criminal proceedings, ought to be exercised sparingly and only where an intervenor can offer a broad perspective beyond the particulars of the prosecution. He submits that this is not the case here particularly as to the first ground of appeal as any submissions made by the Board would inevitably touch on the merits of the disposition.

[34] The appellant is also concerned that, even if the Board attempts to make generic submissions with respect to its jurisdiction and general practices, those submissions would raise matters that he may want to challenge or test through cross-examination, which would not be possible.

[35] Finally, the appellant contends that there is no benefit in adding another voice that will simply duplicate submissions from the Yukon Director, the AG and Ontario Shores. Indeed, he argues that the addition of the Board would be unfair.

The Yukon Director

[36] The Yukon Director submits that the proper way to examine the intervenor application is with reference to the specific grounds of appeal. It supports the

Board's application for intervenor status but only in relation to the third ground of appeal—that the Board erred by naming the Yukon Director as a party to the proceedings. It says that the third ground of appeal engages public interest considerations beyond the individual circumstances of the appellant, and agrees that the Board can offer unique insights into its practice in naming parties, and its jurisdiction to bind both parties and non-parties through disposition orders.

Analysis

[37] In the circumstances of this appeal, it is not appropriate to consider the Board's application on the basis that it has a direct interest in the decision under appeal. While it certainly is interested in the appeal, having made the disposition that is challenged, that is not the kind of interest to be considered when a party applies under this basis. As noted in *Equustek*, the rationale behind direct interest intervention is to permit a party that will be directly affected by a decision the opportunity to make submissions where fairness dictates that the person should be afforded that opportunity. Here, there is no chance that the decision will affect the Board's legal rights or obligations in a prejudicial way, and the question of fairness does not arise.

[38] Accordingly, the application is properly considered under the public interest basis. The Board operates under a statutory mandate that applies to offenders found to be NCRMD in the Yukon. It is similarly situated to review boards in other provinces and territories and, accordingly, has a sufficient representative base relevant to the issues on appeal. In addition, the Board's interest in public safety while ensuring the fair treatment of NCRMD offenders engages with issues of public law. Accordingly, there is a rationale for the Board to seek intervenor status on matters of public interest.

[39] The issues that arise here are: first, whether the case legitimately engages the Board's interest in a public law issue raised on appeal; and second, whether it can provide a unique and useful perspective that will aid the Court in resolving the issues raised: *Dickson* at para. 12. As the Yukon Director submits, it is appropriate to assess these questions in relation to each ground of appeal.

Ground 1: Misapprehension of Evidence

[40] In relation to the appellant's first ground of appeal–that the Board erred by misapprehending the evidence–the Board says that it can offer useful submissions regarding its statutory powers and jurisdiction, and its specialized inquisitorial procedures and policies.

[41] As the Board submits, there is no question that review boards adopt a unique, inquisitorial procedure which require a board to assume an active role in investigating the facts and circumstances relevant to each offender. This was explained in *Winko v. British Columbia (Forensic Psychiatric Institute)*, [1999] 2 S.C.R. 625, 1999 CanLII 694, at para. 54:

> The regime's departure from the traditional adversarial model underscores the distinctive role that the provisions of Part XX.1 play within the criminal justice system. The Crown may often not be present at the hearing. The NCR accused, while present and entitled to counsel, is assigned no burden. The system is inquisitorial. It places the burden of reviewing all relevant evidence on both sides of the case on the court or Review Board. The court or Review Board has a duty not only to search out and consider evidence favouring restricting NCR accused, but also to search out and consider evidence favouring his or her absolute discharge or release subject to the minimal necessary restraints, regardless of whether the NCR accused is even present. This is fair, given that the NCR accused may not be in a position to advance his or her own case. The legal and evidentiary burden of establishing that the NCR accused poses a significant threat to public safety and thereby justifying a restrictive disposition always remains with the court or Review Board. If the court or Review Board is uncertain, Part XX.1 provides for resolution by way of default in favour of the liberty of the individual.
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> [Emphasis in original.]

[42] I also accept that other review boards have routinely been granted intervenor status to make limited submissions respecting their jurisdiction and general practices: *Mazzei v. British Columbia (Director of Adult Forensic Psychiatric Services)*, 2006 SCC 7; *Penetanguishene Mental Health Centre v. Ontario (Attorney General)*, 2004 SCC 20; *R. v. Lepage*, [2006] O.J. No. 3994, 2006 CanLII 33545 (Ont. C.A.); *Northeast Mental Health Centre v. Rogers*, 2007 ONCA 561.

[43] What I fail to see, is how the first ground of appeal properly involves a public law issue on which the Board could offer a useful perspective for the benefit of the Court. As I understand it, the ground of appeal does not raise a question of public interest but rather an issue that is particular to Mr. McGinty's circumstances and the Board's consideration of all of the facts and circumstances. Appellate courts are frequently asked to consider appeals of dispositions made by review boards. Whether the Board misapprehended evidence is a ground of appeal which appellate courts are well placed to consider. It is also well established that the standard of review applicable to review board dispositions, as set out in s. 672.78 of the *Code*, involves a reasonableness review on administrative law principles: *R. v. Owen*, 2003 SCC 33 at para. 34.

[44] The Board relies on the decision in *Carlyle*. I accept many of the principles articulated in that decision including that although the *Code* contains no provision explicitly providing for or denying a board's ability to seek standing, in appropriate cases intervenor status may be granted to a review board to permit it to argue questions of law and explain relevant policies and practices: at para. 54. Further, as noted in *Carlyle*, intervenor applications must be governed by criminal law principles and that the discretion to grant a review board intervenor status should be limited to exceptional cases: at para. 62. However, I fail to see how the decision in *Carlyle* assists in relation to this ground of appeal which does not raise a question of law or jurisdiction. In contrast, the decision in *Carlyle* concerned extraordinary orders in the nature of *certiorari* and *mandamus* that were sought by the offender and which directly challenged the jurisdiction of the review board to conduct a hearing outside of the Yukon.

[45] I appreciate that the Board says it would not make submissions that touch on the merits of the appeal, but I fail to see how any submissions it may make regarding potential misapprehension of evidence would offer assistance to the Court on an issue of public interest, as opposed to questions about the assessment of facts and risk applicable to this case. I note that the Board has not referred this Court to policies or procedures that may be relevant to this ground. There is also merit in the appellant's submission that the Yukon Director, Ontario Shores, and the AG are well placed to make submissions about the gathering and assessment of evidence relevant to the appellant's risk assessment. It is difficult to see how the Board would offer a perspective that is unique and of assistance to the Court beyond what the other parties may offer.

Ground 2: Failure to Incorporate *Gladue* Principles

[46] As Justice Sharpe noted in *R. v. Sim* (2006), 78 O.R. (3d) 183, 2005 CanLII 37586 (Ont. C.A.), s. 672.54 of the *Code* requires review boards to take into consideration the "unique circumstances and background of aboriginal NCR accused… the Gladue principles should be applied to compliment the analysis that s. 672.54 requires": at 188–189; see also *R. v. Hope*, 2016 ONCA 648 at para. 10; *Cooper (Re)*, 2024 ONCA 484 at paras. 7–8.

[47] In *Mitchell (Re)*, 2023 ONCA 229, the Ontario Court of Appeal held that review boards are required to engage in a "different method of analysis" with respect to Indigenous offenders, which "requires adjudicators to pay particular attention to the unique circumstances of Indigenous people detained in psychiatric facilities, and how those circumstances affect the four statutory criteria to be considered by the Board under the [*Code*]": at paras. 21–22.

[48] In light of the above, I accept that the Board is uniquely positioned to offer its specialized expertise on the application of *Gladue* principles within the regional context of the Yukon. In doing so, they take on a perspective different from that of the other parties: *Kwicksutaineuk/Ah-Kwa-Mish First Nation v. British Columbia (Agriculture Lands)*, 2011 BCCA 294 at para. 16 (Chambers); *EGALE Canada Inc. v.*

Canada (Attorney General), 2002 BCCA 396 at para. 7 (Chambers). These insights are particularly valuable in light of the broader impact the Court's ruling may have on similarly situated review boards across the country.

Ground 3: Error in Naming the Yukon Director

[49] The Board's quasi-judicial mandate enables it to bind both parties and non-parties through its disposition orders. In *Mazzei*, the Court held:

> [18] …Review Boards generally have the jurisdiction to make orders and conditions binding on persons other than the accused…The Director, and the treatment team and hospital administration by implication, are bound by Board orders and conditions. This stems from the wording of s. 672.54, the legislative scheme, Parliament's intent and the relevant case law.

[50] Accordingly, allowing the Board to make submissions on its interpretation of its own jurisdiction as reflected in its practice to name parties will provide the Court with important insights. As with the second ground of appeal, the Court's determination of this issue may have impacts on the jurisdictional limits of review boards across Canada.

Disposition

[51] The Board is removed as a party and the style of cause is amended to reflect its removal.

[52] The Board's application to intervene is allowed under the following conditions:

a) The Board shall be permitted to file written submissions with respect to the second and third grounds of appeal, not to exceed 10 pages in total.

b) The division hearing the appeal will determine whether, and the extent to which, the Board may make oral submissions.

c) No costs will be awarded for or against the Board.

[Discussion with counsel re: filing of submissions from the Board]

[53] **BUTLER J.A.**: The Board's submissions shall be filed by August 30, 2024.

"The Honourable Mr. Justice Butler"