

IN THE FEDERAL COURT OF CANADA
(TRIAL DIVISION)

B E T W E E N

MICHELLE DOUGLAS

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

NOTICE OF CONSTITUTIONAL QUESTION

The Plaintiff intends to question the constitutional validity of Canadian Forces Administrative Order 19-20 and section 39 of the Canada Evidence Act, R.S.C. 1985, c. C-5 as amended, in a trial to be heard on Monday, October 26, 1992 at 10:30 in the forenoon at the Federal Court of Canada at 330 University Avenue, Toronto, Ontario.

The following are the material facts giving rise to the constitutional question: The Plaintiff was a member of the Canadian Armed Forces. On April 17, 1989, her security clearance was revoked because of her being homosexual, and her association with other homosexuals. Regulations and policies which "freeze" homosexual members of the Armed Forces were then operative upon her. On August 20, 1989, she was released from the armed forces due to the fact that she was homosexual. During the course of this action, the defendant has withheld disclosure of material relevant to the action on the basis of Cabinet privilege.

The following is the legal basis for the constitutional question:

Canadian Forces Administrative Order 19-20 violates sections 2(b), 2(d), 7 and 15 of the Canadian Charter of Rights and Freedoms, specifically, that it prevents the Plaintiff from exercising her rights of expression and freedom of association; it violates the Plaintiff's liberty in a manner not in accordance with the principles of fundamental justice; and it violates the Plaintiff's right to equality by discriminating against her because she is homosexual.

Section 39 of the Canada Evidence Act violates section 7 of the Canadian Charter of Rights and Freedoms, specifically, that it violates the Plaintiff's liberty and

security of the person in denying her access to documents necessary for the conduct of the action.

SEPTEMBER 23, 1992



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AND TO: THE REGISTRAR OF THIS HONOURABLE COURT

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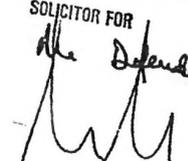
Of Counsel for the Plaintiff

SERVICE OF A TRUE COPY HEREOF ADMITTED
THIS 23rd DAY OF Sept, 1992

CASSELS, BROCK & BLACKWELL

SOLICITOR FOR

the Defendant

per: 

Service of a true copy hereof admitted
this 23 day of Sept 1992
on behalf of the Deputy Attorney General
Of Canada

John C. Tait, Q.C. per ~~JE~~ JEThompson
per JD

filed 92/09/23-je