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The SCC Leave Project: Predictions for March 25, 2021

Here's a look at the leave application decisions that the Supreme Court of Canada will be releasing on March 25, 2021. Each week, we'll be providing a short blog post that summarizes some of the upcoming cases and gives a prediction, of the probability that leave will be granted. These predictions will be based on our proprietary machine learning model and dataset of every leave application decision released by the Supreme Court of Canada from January 1, 2018 onward.

Each week, we'll group cases into four categories:

- **Cases to Watch** – These are cases where our model predicts greater than a 25% chance that leave will be granted. These cases have a much better than average chance that leave will be granted. While this doesn't mean that all of them will get leave, they are worth watching as strong candidates.
- **Possible Contenders** – These are cases where our model predicts between a 5% and 25% chance that leave will be granted. These cases have an average to somewhat above-average chance of getting leave. While most cases in this category won't get leave, on average, we expect to see a healthy minority of cases in this category being granted leave.
- **Unlikely Contenders** – These are cases where our model predicts between a 1% and 5% chance that the case will get leave. The safe bet is against leave being granted in these cases, but we do expect to see it from time to time.
- **Long-Shots** – These are cases where our model predicts a less than 1% chance that the case will get leave. Although it will happen from time to time, it would be an outlier for our model for these cases to be granted leave. We will not be providing summaries for these cases.

If this is your first time reading our weekly SCC leave predictions blog, have a look at an explanation and caveats about our model here.

THIS WEEK'S CASES

There are 11 leave applications decisions coming out on March 25, 2021. Our model only predicts the probabilities of successful leave applications in cases where leave was sought from the Court of Appeal. Two of this week's cases are cases where leave is sought directly from a Superior Court decision, so we don't comment on those. We also typically will not comment or provide a prediction on cases in which we are involved. That leaves eight cases in which we'll give a prediction.

You can find a detailed summary of all of the cases that are up for leave decisions this week here.

Cases to Watch

Her Majesty the Queen v Keith Clarence Napope

This is an application for leave by the Crown in a criminal case relating to the law on inconsistent jury verdicts. The accused was convicted on a robbery charge but acquitted on a manslaughter charge. The Saskatchewan Court of Appeal overturned the conviction.

- **Our Model's Prediction:** This case has a **27%** chance of getting leave.

Attorney General of Canada v Collins Family Trust; Attorney General of Canada v Cochran Family Trust

This is a tax case in which the taxpayers petitioned for orders rescinding a series of transactions in family trusts after the Canada Revenue Agency issued notices of reassessment. The Supreme Court of British Columbia granted the petitions, and the Court of Appeal dismissed the appeal.

- **Our Model's Prediction:** This case has a **27%** chance of getting leave.

Possible Contenders

Ottawa Police Services Board, Charles Bordeleau, Jeffrey Kilcollins, Michael Belanger, Larry McNally, Christopher Rheaume v Martin Rukavina, Heather Rukavina, Joshua Rukavina, and Mitchell Rukavina and Benjamin Rukavina by their Litigation Guardian Heath

This is a civil case brought by a police officer against the Ottawa Police Services Board and other police officers. It raises the question of what exceptions there might be for criminal law matters to the exclusive jurisdiction rule in *Weber v Ontario Hydro*.

- **Our Model's Prediction:** This case has a **6%** chance of getting leave.

Jeremy Robert Czechowski v Her Majesty the Queen

This is a criminal case pertaining to the application of the curative provision.

- **Our Model's Prediction:** This case has a **5%** chance of getting leave.

Prime Properties inc v Patrick Morin inc.

This is a civil dispute out of Quebec dealing with legal hypothecs.

- **Our Model's Prediction:** This case has a **5%** chance of getting leave.

Unlikely Contenders

8678537 Canada inc v Director of Criminal and Penal Prosecutions, Attorney General of Quebec

This is an appeal of a provincial offences conviction under the provisions of the Quebec *Building Act*.

- **Our Model's Prediction:** This case has a **4%** chance of getting leave.

Long-Shots

Giuliano Scaduto v Workplace Safety and Insurance Appeals Tribunal

- **Our Model's Prediction:** This case has less than a **1%** chance of getting leave.

Anica Visic v Elia Associates Professional Corporation, Patricia Elia, University of Windsor

- **Our Model's Prediction:** This case has less than a **1%** chance of getting leave.

UPDATE ON MARCH 25: WHAT HAPPENED THIS WEEK?

Our model was spot-on this week.

The Supreme Court granted leave to two cases this week, *Attorney General of Canada v Collins Family Trust; Attorney General of Canada v Cochran Family Trust* and *AS v Her*

Majesty the Queen and Shane Reddick. Our model didn't provide a prediction for *Reddick*, because it was a leave application directly from a Superior Court decision, which our model is not built to predict. But *Collins Family Trust* was one of the two cases that our model had identified as Cases to Watch, with a predicted probability of 27%. By contrast, none of the cases that our model had identified as relatively low likelihood cases were granted leave.

Interestingly, the other case that our model had identified as a Case to Watch, *Her Majesty the Queen v Keith Clarence Napope*, was remanded back to the Saskatchewan Court of Appeal, to be disposed of in accordance with *Her Majesty the Queen v RV*. Remands are a very rare occurrence, and our model isn't built to predict when they might occur. But the remand outcome for this case gives additional credence to our model—it indicates that our model correctly identified *Napope* as raising important issues, but leave wasn't warranted because those issues had recently been addressed in another decision.

As a reminder, all our model does is predict probabilities. We shouldn't expect that the cases that get leave are always the ones that our model predicts as having the highest probability, but that is what we saw this week, and it's a good start for the model.

Here is the full list of leave application decisions this week.