July 13, 2021

The SCC Leave Project: Predictions for July 15, 2021

Here's a look at the leave application decisions that the Supreme Court of Canada will be releasing on Thursday, July 15, 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 12 leave application decisions coming out on Thursday, July 15, 2021. Our model only predicts the probabilities of successful leave applications in cases where leave was sought from the Court of Appeal. We will not comment or provide a prediction on cases where leave was sought directly from a Superior Court decision or on cases in which we are involved. That leaves 10 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 Terrell Ochrym

After being solicited, Mr. Ochrym aided in a scheme to provide the complainant's sexual services for consideration in motels. Mr. Ochrym drove the complainant to the motel, brought her to the motel room and brought her items when asked. He either gave his phone to the complainant's partner to post ads online or posted ads online himself. He was convicted of procuring another person to provide sexual services for consideration and of advertising sexual services for consideration. The Court of Appeal allowed an appeal, set aside the convictions, and ordered a new trial.

- **Our Model's Prediction:** This case has a 32% chance of getting leave.

Possible Contenders

David Earle v Her Majesty the Queen

Mr. Earle misled clients to believe that his company possessed precious metals and that purchases of precious metals were being made by the company in accordance with their orders. His company went bankrupt. Mr. Earle was charged with fraud over $5000 and money laundering. He was convicted on both counts. He was sentenced to three years imprisonment. The sentencing judge ordered a fine in lieu of forfeiture. The appeal was dismissed by the Court of Appeal.

- **Our Model's Prediction:** This case has a 12% chance of getting leave.

Orville Campbell v Her Majesty the Queen

Mr. David was with Mr. Campbell when Mr. David fatally shot the victim. The Crown alleged that Mr. Campbell passed the gun to Mr. David and instructed him to kill the victim. After a trial by judge and jury, both were convicted of first degree murder. The Court of Appeal concluded that the verdict of first degree murder was unreasonable. The Court of Appeal substituted a verdict of second degree murder and remitted the matter to the Superior Court for sentencing.

- **Our Model's Prediction:** This case has a 11% chance of getting leave.

Mohamed Belmamoun v Ville de Brossard

Mohamed Belmamoun and Gaétan L'Heureux filed an application for authorization to institute a class action against Ville de Brossard in which they alleged that serious neighbourhood disturbances had resulted from the significant expansion of a commercial district in the territory of those municipalities. The town raised a defence of prescription based on s. 586 of the *Cities and Towns Act*, CQLR, c. C 19, and, in the alternative, on art. 2925 of the *Civil Code of Québec*. The Superior Court held that the town's prescription defence was made out in part. The Court of Appeal allowed the town's appeal and dismissed the applicants' incidental appeal.

- **Our Model's Prediction:** This case has a 7% chance of getting leave.

Unlikely Contenders

Dimitri Alexiou v Her Majesty the Queen

Multiple arrests and the seizure of drugs worth millions of dollars resulted from a confidential informer's tip. An in camera, *ex parte* hearing was held to determine whether the informant acted as a police agent or a material witness and whether their confidential informer privilege should be pierced. The applications judge dismissed the stay, holding that privilege applied and the confidential informant was neither a police agent nor a material witness. The applicant was then convicted for trafficking of cocaine and possession of cocaine for the purpose of trafficking. The Court of Appeal dismissed the appeal.

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

Viet Khanh Le v Her Majesty the Queen

Upon commencing an investigation into a suspected marijuana grow operation the RCMP learned that four individuals, including Mr. Le, held licenses to produce marijuana at the property. On executing a search warrant, the police found that the barn was being used for a grow operation that was much larger than the total number of plants that were authorized. Mr. Le was convicted on counts of producing and trafficking marihuana. The Court of Appeal dismissed his appeal.

- **Our Model's Prediction:** This case has a 3% chance of getting leave.

Long-Shots

Guillaume Bourdeau c Société des alcools du Québec

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

Robert John Wenkoff v Ian Wagner, Administrator Pendente Lite of the Estate of the late Robert Rusin Wenkoff

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

Marian L. Carroll v Toronto-Dominion Bank c.o.b.TD Bank Group, et al.

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

Marguerite Mary (Margaret) Buck v Attorney General of Canada, et al.

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

UPDATE ON JULY 15: WHAT HAPPENED THIS WEEK?

The Supreme Court did not grant leave to any cases this week, which is consistent with our model's predictions. The outcome was not surprising as 4 cases were Long-Shots, 2 were Unlikely Contenders and 4 were Possible Contenders. Only *Her Majesty the Queen v Terrell Ochrym*, was a Case to Watch. With a 32% chance of getting leave, the case was dismissed.