



Government of Canada

Gouvernement du Canada

MEMORANDUM

NOTE DE SERVICE

cc: file

TO
A

SOLICITOR GENERAL
FOR INFORMATION AND SIGNATURE

FROM
DE

DEPUTY SOLICITOR GENERAL

SUBJECT
OBJET

JAMES STILES V. HER MAJESTY THE QUEEN

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE - N / RÉFÉRENCE P6133-C
YOUR FILE - V / RÉFÉRENCE
DATE MAY 28 1986

T.D. NO.	61495
NO. D.T.	
FILE NO.	275-1
NO. DOSSIER	
S.F.	
A.R.	12-6-86

On May 6, 1986, you met with Commissioner Simmonds and discussed, among other things, the case of James Stiles v. Her Majesty the Queen. The Commissioner had asked for some guidance on the defence of the case which might be used as instruction to counsel. In response, you had undertaken to seek the advice of the Minister of Justice. However, the point on which the Commissioner is seeking guidance is in need of clarification. A letter to the Commissioner asking him to clarify the nature of the guidance he is seeking is attached for your signature.

BACKGROUND

James Stiles became a regular member of the RCMP in 1969 and was employed in the Force's Security Service from February 1, 1973 to August 10, 1984. In the Fall of 1983, Mr. Stiles was confronted with the allegation that he was a homosexual. Although he denied this initial allegation, in June 1984, Mr. Stiles indicated to one of his superiors that he had had homosexual experiences. Following this admission, he resigned from the Force, effective August 9, 1984 and was employed as a civilian member of the RCMP on August 10, 1984.

Mr. Stiles claims that his decision to resign from the Force was made under duress, coercion and the embarrassment of discharge.

Since April 17, 1985, Mr. Stiles has sought readmission as a regular member of the RCMP but claims that these requests have been denied on the sole ground of the RCMP policy preventing employment of homosexuals.

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Moreover, in the late Summer of August 1985, he applied for employment with CSIS and claims that he was refused on the grounds that no known homosexuals were employed by that agency. It is in connection with the two refusals of employment by the RCMP and CSIS, both of which occurred after the Canadian Charter of Rights and Freedoms came into effect, that Mr. Stiles is claiming violation of section 15 of the Charter.

STATUS

Upon reviewing the Statement of Claim (Tab A), it is clear that Mr. Stiles is invoking the Charter of Rights and Freedoms in respect of events which occurred after the Charter came into force and not with respect to his resignation as a regular member which occurred prior to that time. Thus, the Commissioner's suggestion that a suitable defence might be based on arguments outside of Charter considerations is somewhat puzzling. There appears to have been some discussion about a defence motion to strike those parts of the Claim that are pre-Charter but that, at best, would only delay the course of Mr. Stiles' actions and would not in any way affect the portion of his claim which relies upon the Charter.

RECOMMENDATION

In light of the above, it is rather difficult to ascertain precisely what advice you ought to be seeking from the Minister of Justice on behalf of the Commissioner. It is, therefore, recommended that you sign the attached letter which requests the Commissioner to clarify the nature of the guidance he is seeking in this case.


Fred E. Gibson

Att.

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