

Court File No.:

**FEDERAL COURT**

B E T W E E N:

DAVID JOSEPH MacKINNON and ARIS LAVRANOS

Applicants

and

CANADA (PRIME MINISTER), CANADA (ATTORNEY GENERAL) and  
CANADA (GOVERNOR GENERAL)

Respondents

**NOTICE OF APPLICATION**

**(APPLICATION UNDER SECTION 18.1 OF THE  
*FEDERAL COURTS ACT*, R.S.C. 1985, c. F-7)**

**TO THE RESPONDENTS:**

**A PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the applicants. The relief claimed by the applicants appears below.

**THIS APPLICATION** will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of the hearing will be as requested by the applicant. The applicant requests that this application be heard at **Toronto**.

**IF YOU WISH TO OPPOSE THIS APPLICATION**, to receive notice of any step in the application or to be served with any documents in the application, you or another acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, **WITHIN 10 DAYS** after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of the Court at Ottawa (telephone 613-992-4238) or at any local office.

**IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.**

Date:

Issued by: \_\_\_\_\_  
(Registry Officer)

Address of local office:

180 Queen Street West, Suite 200  
Toronto, Ontario  
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**TO:** The Attorney General of Canada  
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Ottawa, ON K1A 0H8

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## APPLICATION

### OVERVIEW

1. This is an application for judicial review in respect of a decision rendered by the respondent, the current Prime Minister of Canada, the Right Honourable Justin Trudeau, P.C., M.P. (the “**Prime Minister**”), to advise Her Excellency the Right Honourable Mary Simon, C.C., O.C., O.Q., C.M.M., C.O.M., Governor General of Canada, (the “**Governor General**”), to exercise her prerogative power to prorogue the first session of the 44<sup>th</sup> Parliament of Canada until Monday, March 24, 2025 (the “**Decision**”).
2. The Decision was rendered and first communicated by the Prime Minister to the applicants (and the Canadian public) by way of a televised appearance on January 6, 2025.

### STATEMENT OF RELIEF SOUGHT

3. The applicants make application for an order:
  - (a) dispensing with the normal time limits pertaining to applications for judicial review, and granting an urgent and expedited hearing of this matter;
  - (b) granting this application for judicial review;
  - (c) setting aside the Decision and declaring that the first session of the 44<sup>th</sup> Parliament of Canada has not been prorogued; and
  - (d) providing such further and other relief as counsel may advise and this Court considers appropriate.
4. The applicants do not seek costs, and ask that no costs be awarded against them, regardless of the outcome of this application.

## **GROUND FOR THE APPLICATION**

### **The Applicants**

5. The applicant, David Joseph MacKinnon, is an individual who resides in Amherst, Nova Scotia. Mr. MacKinnon is a Canadian citizen who is entitled to vote in federal elections.

6. The applicant, Aris Lavranos, is an individual who resides in Halifax, Nova Scotia. Dr. Lavranos is a Canadian citizen who is entitled to vote in federal elections.

### **Background**

7. The Prime Minister is the leader of the Liberal Party of Canada (“LPC”).

8. The most recent federal election in Canada was held on September 20, 2021 to elect new members of the House of Commons for the 44<sup>th</sup> Parliament of Canada.

9. In this 2021 election, the LPC won 160 seats in the House of Commons and formed a minority government.

10. As of January 6, 2025, there are 153 seats held by the LPC.

11. Over the last several months, opinion polls have consistently indicated that the current government is likely to suffer a resounding defeat at the next election.

12. In recent months, the leaders of all of the major opposition parties with significant seat counts in the House of Commons have also repeatedly announced their intention to support a motion of non-confidence in the current government at the earliest opportunity.

13. Meanwhile, on November 5, 2024, the American presidential election took place in the United States. Donald Trump was re-elected and will take office as the 47<sup>th</sup> President of the United States on January 20, 2025.

14. President-Elect Trump has since announced his intention, upon taking office in January 2025, to impose a 25% tariff on all products entering the United States from Canada and Mexico until both countries take action to stop the flow of illegal drugs and migrants into the United States.

### **The Decision**

15. On January 6, 2025, the Prime Minister appeared in Ottawa on national television to give a prepared statement and hold a press conference.

16. During the course of his prepared statement, the Prime Minister announced his intention to resign as both leader of the LPC, and as Prime Minister, once the LPC has selected its next leader.

17. During his prepared statement, the Prime Minister said as follows:

...And the fact is, despite best efforts to work through it, Parliament has been paralyzed for months, after what has been the longest session of a minority Parliament in Canadian history.

That's why this morning, I advised the Governor General that we need a new session of Parliament. She has granted this request, and the House will now be prorogued until March 24.

Over the holidays, I've also had a chance to reflect and have had long talks with my family about our future. Throughout the course of my career, any success I have personally achieved has been because of their support, and with their encouragement.

So last night over dinner, I told my kids about the decision that I'm sharing with you today. I intend to resign as party leader, as Prime Minister, after the party selects its next leader through a robust, nationwide, competitive process.

Last night, I asked the president of the Liberal Party to begin that process. This country deserves a real choice in the next election, and it has become clear to me that if I'm having to fight internal battles, I cannot be the best option in that election.

18. During his prepared statement, the Prime Minister also said as follows:

The Liberal Party of Canada is an important institution in the history of our great country and democracy.

A new PM and Leader of the Liberal Party will carry its values and ideals into that next election. I'm excited to see the process unfold in the months ahead. We were elected for the 3<sup>rd</sup> time in 2021 to strengthen the economy post-pandemic and advance Canada's interests in a complicated world, and that is exactly the job that I and we will continue to do for Canadians.

19. Following his prepared statement, the Prime Minister then took questions from reporters.

One such question (in French) was posed as follows:

*Vous vouliez le faire, ce combat contre Pierre Poilievre; des batailles internes y en a dans votre parti depuis plusieurs mois déjà. Pourquoi est-ce que vous décidez d'abdiquer maintenant? Qu'est-ce qui vous a fait changer d'avis?*

20. The Prime Minister responded (in English) as follows:

As you all know, I am a fighter, and I am not someone who backs away from a fight, particularly when a fight is as important as this one is. But I have always been driven by my love for Canada, by my desire to serve Canadians and by what is in the best interest of Canadians, and Canadians deserve a real choice in the next election, and it has become obvious to me with, uh, the internal battles, that I cannot be the one to carry the Liberal standard into the next election.

21. Another such question (in French) was posed as follows:

*Il y a seize ans, en décembre 2008, Stephen Harper a prorogé le Parlement, pour s'éviter un vote de confiance qu'il savait qu'il allait perdre parce que les trois partis d'opposition allaient voter contre lui. Exactement la situation dans laquelle vous vous trouvez aujourd'hui. À l'époque, le chef libéral Stéphane Dion avait dit puis je le cite ici, que c'était "une entrave à la constitution et un affront à la démocratie". Or, j'aimerais savoir pourquoi ce qui était mauvais pour les conservateurs de Stephen Harper devrait être bon pour les libéraux de Justin Trudeau?*

22. The Prime Minister responded (in English) as follows:

In 2008, the Governor General correctly concluded that because the very last times in the previous weeks that the confidence of the House had been tested, it had passed that confidence test, Stephen Harper continued to have the confidence of the House, and it actually would bear out because as soon as they came back from the prorogation, Stephen Harper won a confidence vote once again. So a political document or political speeches doesn't carry the kind of weight that, um, winning a confidence vote means.

But this prorogation will take us only into March, and there will be confidence votes in March, in the passing of supply that will allow Parliament to weigh in on confidence, um, in a way that is entirely in keeping with all the principles of democracy and the workings of our strong institutions.

23. Another such question (in French) was posed as follows:

*Mais avec respect M. Trudeau, y a-t-il pas quelque chose un peu anti-démocratique de suspendre la possibilité du Parlement d'exprimer sa non-confiance, le temps de votre parti se cherche un sauveur. Est-ce qu'il ne devrait pas plutôt juste se référer aux électeurs et de déclencher dès maintenant une élection?*

24. The Prime Minister responded (in English) as follows:

The Parliamentary Press Gallery, and anyone who's been watching politics closely over the past months, will know that Parliament has been entirely seized by obstruction and filibustering and a total lack of productivity over the past few months. We are right now the longest serving minority government in history and it's time for a reset. It's time for the temperature to come down, for the people to have a fresh start in Parliament, to be able to navigate through these complex times both domestically and internationally, and the reset that we have is actually two parts: one is the prorogation, but the other part is recognizing that removing me from the equation as the leader who will fight the next election for the Liberal Party should also decrease the level of polarization that we're seeing right now in the House and in Canadian politics and allow people to actually focus on serving Canadians in this House and with their work the way Canadians deserve.

25. Accordingly, the Prime Minister's stated justification for the Decision is twofold:

- (a) to "reset" Parliament; and
- (b) to permit the LPC time to select a new party leader, who can then lead the LPC into the next election.

26. The applicants are not aware of any other reasons of the Prime Minister to justify the Decision.

**The Decision is Incorrect, Unreasonable or Both Incorrect and Unreasonable**

27. The Decision is incorrect or unreasonable, or both, on the following grounds:

- (a) in all of the particular circumstances surrounding it, the Decision has the effect of frustrating or preventing, without reasonable justification, the ability of Parliament to carry out its constitutional functions as a legislature and as the body responsible for the supervision of the executive, particularly insofar as it relates to Parliament's ability to deal quickly and decisively with especially pressing issues, such as the situation caused by President-Elect Trump's stated intention to impose a 25% tariff on all goods entering the United States from Canada;
- (b) the cumulative and intended effect of the Decision is part of a stratagem designed specifically to interrupt the business of Parliament and stymie the publicly stated intent of a majority of the House of Commons to bring a motion for non-confidence in the government. The Decision was not made in furtherance of Parliamentary business or the business of government, but in service of the interests of the LPC;
- (c) in all of the particular circumstances surrounding it, the Decision violates the constitutional principle of Parliamentary sovereignty;
- (d) in all of the particular circumstances surrounding it, the Decision violates the constitutional principle of Parliamentary accountability;



- (e) because an election – and not a prorogation – is the only legitimate and democratic mechanism by which a “reset” of Parliament can be achieved;
- (f) the purported justification of the Decision on the basis that prorogation will achieve a “reset” of Parliament is specious, arbitrary, irrational and without a legal or constitutional basis;
- (g) alternatively, a prorogation of almost eleven weeks, until March 24, 2025, amounts to an inherently unreasonable attempt to “reset” of Parliament;
- (h) the LPC is not entitled to a prorogation of Parliament until March 24, 2025 in order to conduct an internal leadership race;
- (i) in purportedly justifying the Decision on the basis that the LPC is entitled to a prorogation of Parliament until March 24, 2025 in order to conduct an internal leadership race, the Prime Minister conflated his role as Prime Minister with his role as leader of the LPC. Thus, the Prime Minister’s advice to the Governor General was *ultra vires* his authority as Prime Minister; and
- (j) such further and other grounds as counsel may advise and this Court permit.

**THE APPLICANT RELIES ON THE FOLLOWING STATUTORY PROVISIONS:**

- (a) the *Constitution Act, 1867*, 30 & 31 Vict, c. 3;
- (b) the *Constitution Act, 1982*, being Schedule B to the *Canada Act, 1982 (UK)*, 1982, c. 11, including the *Canadian Charter of Rights and Freedoms*;
- (c) *Federal Courts Act*, R.S.C. 1985, c. F-7, ss. 18.1;
- (d) *Federal Courts Rules*, SOR/8-106.

**THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:**

- (a) the Affidavit(s) of TBD, sworn TBD; and
- (b) such further and other evidence as the lawyers may advise and this Court may permit.



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TORONTO

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