Court File No. CV-25-00099970-0000

ONTARIO SUPERIOR COURT OF JUSTICE
(EAST REGION)

B E T W E E N:

STEVEN LEONARD REYNEN

Appellant

-and-

DR. TABITHA ROGERS

Respondent

-and-

PUBLIC GUARDIAN AND TRUSTEE

Respondent

FACTUM OF *AMICUS CURIAE*

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PART I: STATEMENT OF THE CASE

1. The appellant Mr. Steven Reynen has been admitted to hospital involuntarily pursuant to the *Mental Health Act* since January of 2025.[1] He was found incapable with respect to treatment with antipsychotic medication, and the Consent and Capacity Board ("CCB"; "the Board") upheld that finding of incapacity on January 29, 2025.[2]

2. On May 14, 2025, the Board convened to hear two applications under the *Health Care Consent Act*[3] ("*HCCA*") brought by Dr. Tabitha Rogers concerning the following prior wish made by Mr. Reynen in July of 2024: "I never, ever, wish to be put on any psychotropic medication (including antipsychotics, antidepressants, etc.) ever again. Under any circumstance."[4] The Board found that Mr. Reynen had made a clear prior wish when he was capable, but found that the wish did not apply to his circumstances at the time of the hearing.[5] The Board directed the substitute decision-maker to give or refuse consent to the proposed treatment in accordance with s. 21(2) of the *HCCA*.[6] Mr. Reynen is appealing the Board's decision.

PART II: SUMMARY OF THE FACTS

A. Mr. Reynen's mental health history

3. Mr. Reynen was diagnosed with depression and mania at age 13.[7] In his later teen

[1] Transcript of Proceedings, pp. 102-104.
[2] Transcript of Proceedings, p. 104; *SR (Re)*, 2025 CanLII 27115 (ON CCB).
[3] *Health Care Consent Act, 1996*, SO 1996, c 2, Sched A.
[4] Exhibit 2, Record of Proceedings Volume 1, pp. 223-224/PDF pp. 228-229.
[5] Reasons for Decision, Record of Proceedings Volume 1, p. 19/PDF p. 24.
[6] Decision re: Form D Record of Proceedings Volume 1, p. 31/PDF p. 36.
[7] Transcript of Proceedings, p. 14.

years, he experienced the onset of psychotic symptoms, including significant paranoia, and suicidal thoughts and behaviours resulting in hospital admission.[8] In 2018, Mr. Reynen was diagnosed with schizoaffective disorder.[9] He was then followed as an out-patient by psychiatrist Dr. Alexandra Baines at the Royal Ottawa Mental Health Centre.[10] In 2019, Mr. Reynen disclosed to Dr. Baines that he was using cannabis more regularly and was intermittently stopping his antipsychotic medication, Abilify. Mr. Reynen struggled with significant weight gain while he was on Abilify.[11] Later that year, Mr. Reynen trialed a low dose of another antipsychotic medication, brexpiprazole, which had less risk of weight gain.[12]

4. In 2020, the pandemic was a massive disruption for Mr. Reynen. Between June 2020 and November 2022, Mr. Reynen had six psychiatric admissions to hospital.[13] After discharge, he would often become non-compliant with treatment. During his longest admission from June 2021 to November 2022, Mr. Reynen was found incapable with respect to treatment.[14] He was trialed on different antipsychotic medications without success, eventually leading to a trial of clozapine – an oral antipsychotic medication reserved for treatment-resistant schizophrenia.[15] By the time of discharge in November 2022, Mr. Reynen was taking 250mg of clozapine daily.[16] Following

[8] Transcript of Proceedings, pp. 14-15; Exhibit 5: CCB Summary, Record of Proceedings Volume 1, p. 225/PDF p. 230.
[9] Transcript of Proceedings, p. 14
[10] Transcript of Proceedings, pp. 13-14.
[11] Transcript of Proceedings, p. 17.
[12] Transcript of Proceedings, pp. 17-18.
[13] Transcript of Proceedings, pp. 15-16.
[14] Transcript of Proceedings, pp. 18-23.
[15] Transcript of Proceedings, pp. 20, 22.
[16] Transcript of Proceedings, p. 30.

discharge, Mr. Reynen continued to see Dr. Baines monthly as an out-patient.[17]

5. Through early 2023, Mr. Reynen was doing well in the community.[18]Although he wondered if there could be an alternative explanation to schizophrenia for his symptoms, he was very clear with Dr. Baines that he could "definitely" see how his presentation was consistent with schizophrenia. Mr. Reynen further appreciated that he had experienced significant improvements being on clozapine, including how he was feeling and his ability to interact with and have positive relationships with his family. Mr. Reynen nevertheless made it clear to Dr. Baines on multiple occasions that he did not enjoy being on clozapine.[19]

6. In the summer of 2023, Mr. Reynen told Dr. Baines that he wanted to explore the possibility of being on less medication. During two family meetings with his parents, Mr. Reynen asked Dr. Baines to reduce his clozapine with the goal of stopping it completely.[20] Mr. Reynen told Dr. Baines that he was struggling with the metabolic side effects of clozapine – i.e., risk of diabetes, worsening blood pressure, risk of high cholesterol, onset of hypertension – and weight gain. Mr. Reynen's parents were also concerned about his physical health.[21]

7. Dr. Baines was aware of Mr. Reynen's long-term goal to be off all medication, if possible – a goal he had held since 2021.[22] At the time of Mr. Reynen's request to reduce his clozapine in June and July of 2023, Mr. Reynen was stable and doing well

[17] Transcript of Proceedings, p. 23; Exhibit 5: CCB Summary, Record of Proceedings Volume 1, p. 225/PDF p. 230.
[18] Transcript of Proceedings, pp. 23-24; Exhibit 5: CCB Summary, Record of Proceedings Volume 1, p. 226/PDF p. 231.
[19] Transcript of Proceedings, p. 25.
[20] Transcript of Proceedings, pp. 32-36.
[21] Transcript of Proceedings, pp. 32-37, 48.
[22] Transcript of Proceedings, pp. 62, 69, 93-94.

in the community. Dr. Baines reviewed with Mr. Reynen the risks of stopping his antipsychotic medication, including a very likely relapse of psychosis (95% likely) without medication, versus a less likely (40% likely) risk of relapse while continuing medication. Dr. Baines explained that for one in six people who experience a relapse of psychosis after stopping medication, they will not respond to the medication if it is restarted. Dr. Baines explained that reducing medication must be done very slowly to reduce the risk of withdrawal symptoms. Mr. Reynen told Dr. Baines that he did not want his ability to interact with his parents to change, and he did not want to return to feeling as badly as he did prior to his last hospital admission.[23] Dr. Baines told Mr. Reynen that the metabolic concerns he had could be managed with side-effect medication, but Mr. Reynen did not want to take the additional medication.[24]

8. Although Dr. Baines did not reassess Mr. Reynen's capacity during her June and July 2023 meetings with him, her evidence before the Board was that Mr. Reynen showed a "significant demonstration of capacity for discussing risks and treatment and non treatment and options for treatment plans".[25] Mr. Reynen also showed an appreciation that there had been a reduction in intensity of hallucinations and intensity of his paranoid thoughts since starting treatment. He also agreed that he had seen an improvement in the stability of his mood, his ability to complete daily tasks, and his ability to be involved with family.[26]

9. In July 2023, Dr. Baines agreed to reduce Mr. Reynen's dose of clozapine by 25mg

[23] Transcript of Proceedings, pp. 25-26, 29, 32-37; Exhibit 5: CCB Summary, Record of Proceedings Volume 1, p. 226/PDF p. 231.
[24] Transcript of Proceedings, pp. 32-37, 48, 95.
[25] Transcript of Proceedings, pp. 37-38; see also p. 34.
[26] Transcript of Proceedings, p. 38.

every one to three months, with the goal of stopping clozapine altogether. Dr. Baines agreed to re-evaluate Mr. Reynen's dose continuously through the process.[27]

10. Later that summer, Mr. Reynen made a video addressed to his future self.[28] In the video, Mr. Reynen states that he knows he hates clozapine and what it does to his mind and body. He asks himself to remember that "the past handful of months have been some of the best months of your life".[29] He states that he has been getting along with his family, which is the most important thing to him. He reminds himself that he loves his parents dearly and his parents care about him and want him to take his "meds". He encourages himself to listen to his parents, references that it will be hard gaining the weight back, and tells himself to trust his parents.[30]

11. From the summer of 2023 to the summer of 2024, the gradual reductions in Mr. Reynen's medication went well.[31] In June 2024, Mr. Reynen asked to have his treatment capacity formally reviewed.[32] According to Dr. Baines, Mr. Reynen was doing very well at that time. He had a very good understanding of the symptoms of psychosis, he agreed that his symptoms could be explained by schizophrenia, although he explained his symptoms differently. He was able to talk in depth about medication treatment, medications that have improved his symptoms of psychosis – including hallucinations, paranoia, improved organization and mood – and he was able to appreciate the risk of relapse of his illness by discontinuing treatment,

[27] Transcript of Proceedings, p. 36.
[28] Exhibit 3: Video Made by Mr. Reynen, Part 1; Exhibit 4: Video Made by Mr. Reynen, Part 2, Record of Proceedings Volume 2; Transcript of Proceedings, pp. 89-91.
[29] Exhibit 3: Video Made by Mr. Reynen, Part 1, Record of Proceedings Volume 2.
[30] Exhibit 4: Video Made by Mr. Reynen, Part 2, Record of Proceedings Volume 2. See also Transcript of Proceedings, p. 39.
[31] Transcript of Proceedings, pp. 38-39.
[32] Transcript of Proceedings, p. 42, 44.

specifically clozapine. Dr. Baines reviewed the risk of relapse without treatment as being 95% likely, and explained that the severity of relapse was unpredictable. She also told Mr. Reynen that he would be at higher risk of suicide within the first year of stopping clozapine. Dr. Baines discussed with Mr. Reynen alternative antipsychotics that could be tried – though she explained that she did not think they would be as successful as clozapine for Mr. Reynen. Mr. Reynen indicated he only wanted to try another medication if his symptoms worsened with the discontinuation of clozapine.[33] Following her assessment, Dr. Baines found Mr. Reynen capable with respect to treatment.[34]

12. Mr. Reynen was clear with Dr. Baines during the capacity assessment appointment in June 2024 that he did not want to do anything to jeopardize his relationships with his family. He expressed that he wanted to keep working with his family and Dr. Baines to monitor his symptoms. Mr. Reynen expressed a wish to not be on medication, if he could tolerate the medication reduction without his mental health worsening. Mr. Reynen's main reason for wanting to stop clozapine was his concern about side effects. Dr. Baines knew that Mr. Reynen had previously lost about 100 lbs after discontinuing medications prior to his hospitalization in 2021. Once Mr. Reynen re-started treatment with antipsychotics, he gained 220 lbs, making him morbidly obese. Mr. Reynen had met with a nurse practitioner and an internal medicine specialist who expressed concern about his weight gain, including the impact on his blood

[33] Transcript of Proceedings, pp. 43-47; Exhibit 5: CCB Summary, Record of Proceedings Volume 1, p. 226/PDF p. 231.
[34] Transcript of Proceedings, p. 42, 44.

pressure, the risk of diabetes, and further impact on his physical health.[35]

B. Mr. Reynen's prior wish and the treatment that followed

13. In July of 2024, Mr. Reynen emailed a letter to his parents and his case worker, which he copied to Dr. Baines, expressing the following wish: "I never, ever, wish to be put on any psychotropic medication (including antipsychotics, antidepressants, etc.) ever again. Under any circumstance."[36] In the letter, Mr. Reynen also wrote that that he has a diagnosis of schizoaffective disorder, that he was taking 68.75mg of clozapine, that he no longer believed in suicide, and that it is not appropriate to commit violence.[37]

14. Dr. Baines did not discuss Mr. Reynen's letter with him at their next appointment.[38] Mr. Reynen's clozapine continued to be slowly tapered off, though at times his dose was maintained or increased to deal with worsening symptoms. He remained capable with respect to treatment.[39]

15. In December 2024, Dr. Baines noticed that things were starting to change. Mr. Reynen reported past memories of "satanic ritual abuse". He was also more agitated and concerned that he had a diagnosis of dissociative identity disorder, which he had been preoccupied with in 2021 when he was more acutely unwell. Mr. Reynen's parents highlighted their concerns to Dr. Baines. Mr. Reynen appreciated that things

[35] Transcript of Proceedings, pp. 47-48, 83.
[36] Exhibit 2, Record of Proceedings Volume 1, pp. 223-224/PDF pp. 228-229.
[37] Transcript of Proceedings, p. 49; Exhibit 2, Record of Proceedings Volume 1, pp. 223-224/PDF pp. 228-229.
[38] Transcript of Proceedings, p. 51.
[39] Transcript of Proceedings, pp. 52-55.

were not going as well as they had been and agreed to increase his clozapine.[40]

16. Dr. Baines saw Mr. Reynen in early January of 2025. He had decreased his clozapine to 56.25mg. He was more agitated and preoccupied with his belief that he was a victim of satanic ritual abuse, but he agreed to continue taking clozapine at this dose. Mr. Reynen did not attend his next scheduled appointment with Dr. Baines.[41]

17. Dr. Baines' evidence was that Mr. Reynen retained his capacity with respect to treatment from June 2024 through to her last meeting with him in January 2025.[42]

18. On January 20, 2025, Mr. Reynen's parents called 911 after Mr. Reynen had been wielding a knife, telling his parents that he had no control over the knife and the knife was forcing him to stab his parents and himself. Mr. Reynen was admitted to the Ottawa Hospital, Civic Campus as an involuntary patient.[43] He was found incapable with respect to treatment with antipsychotic medication, which was upheld by the CCB on January 29, 2025.[44] Substituted consent was obtained from the public guardian and trustee and Mr. Reynen and was treated with injectable antipsychotic medication.[45]

19. On February 25, 2025, Mr. Reynen was transferred to the Royal Ottawa Mental Health Center. He received another injection of antipsychotic medication on March

[40] Transcript of Proceedings, pp. 55-56; Exhibit 5: CCB Summary, Record of Proceedings Volume 1, p. 226/PDF p. 231.
[41] Transcript of Proceedings, p. 56.
[42] Transcript of Proceedings, pp. 60-61, 72, 80-81.
[43] Transcript of Proceedings, pp. 102-104.
[44] Transcript of Proceedings, p. 104.
[45] Transcript of Proceedings, pp. 104-105; Exhibit 5: CCB Summary, Record of Proceedings Volume 1, p. 227/PDF p. 232.

11.[46] Later that month, Dr. Rogers learned of Mr. Reynen's wish regarding treatment expressed in his July 2024 letter. Further treatment was put on hold.[47]

20. Prior to stopping treatment with antipsychotics, hospital staff had observed some improvement in Mr. Reynen's thought process, and Mr. Reynen was able to leave the unit for smoke breaks and to go for dinner with his parents.[48] Once the March 11th injection wore off, Mr. Reynen expressed serious suicidal ideation and required two staff with him, 24 hours a day.[49] During a family meeting, Dr. Rogers showed Mr. Reynen his video from the summer of 2023; Mr. Reynen said the video was invalid, it was not how he was feeling now, and it was not what he agreed to now.[50] Mr. Reynen contested his involuntary status in hospital, which the CCB upheld on May 8, 2025.[51]

C. The CCB Hearing and the Board's decision

21. Dr. Rogers applied to the Consent and Capacity Board for directions about the applicability of the July 2024 wish expressed by Mr. Reynen. The CCB convened a hearing on May 14, 2025 to determine whether to provide directions to the substitute decision-maker regarding treatment with antipsychotic medication (a Form D application), and if applicable, whether to provide permission to the substitute decision-maker to depart from the previously expressed wish (a Form E

[46] Transcript of Proceedings, pp. 104-105.
[47] Transcript of Proceedings, p. 106.
[48] Transcript of Proceedings, pp. 105-107.
[49] Transcript of Proceedings, pp. 107-108.
[50] Transcript of Proceedings, p. 109.
[51] Transcript of Proceedings, p. 115.

application).[52]

22. When a Form D application is filed with the Board, s. 37.1 of the *HCCA* deems that there is an application under s. 32 of the *HCCA* to review the person's capacity to consent to the proposed treatment, unless the person's capacity has been determined by the Board in the previous six months. In Mr. Reynen's case, the Board had reviewed his capacity to consent to treatment with antipsychotic medication on January 29, 2025.[53] Mr. Reynen did not seek leave from the Board under s. 32(6) of the *HCCA* to bring a new Form A application. As such, Mr. Reynen's treatment capacity was not in issue before Board.[54]

23. At the time of the hearing, Mr. Reynen was still admitted to the Royal involuntarily. He had cut off all contact with his parents the week before the hearing.[55] He continued to display delusions where he felt his body was acting independently of his thoughts. Mr. Reynen spoke very graphically about rape and torture, which was upsetting to other patients on the unit. He continued to say he would commit suicide, which he accompanied by gestures (i.e., stabbing himself in the neck with a pen). He continued to be on 2:1 continuous observation by staff.[56] Dr. Rogers' opinion was that without treatment, Mr. Reynen's prognosis was very poor. He would very likely remain an involuntary patient, and he was at high risk of suicide.[57]

24. Dr. Rogers' evidence was that Mr. Reynen's illness during this hospitalization was

[52] Order of the Board, dated May 15, 2025, Record of Proceedings Volume 1, p. 32/PDF p. 37.
[53] Transcript of Proceedings, p. 104.
[54] Reasons for Decision, Record of Proceedings Volume 1, p. 11/PDF p. 16.
[55] Transcript of Proceedings, pp. 108.
[56] Transcript of Proceedings, pp. 111-114.
[57] Transcript of Proceedings, pp. 115-116.

progressing as expected within a range of expectation.[58] Specifically, the extent of Mr. Reynen's mental deterioration, the increasing intensity of his delusions, his more erratic and unpredictable behaviour, his increasing dysregulation and lability, his increasing hostility, threatening behaviour and risk of suicide were not surprising and were as anticipated.[59] Mr. Reynen was preoccupied with religious delusions and showed limited insight into his illness. He did not believe that he had schizophrenia, but rather a dissociative identity disorder due to childhood satanic rituals. He did not believe in taking any medication.[60]

25. Before the Board, Dr. Rogers submitted that Mr. Reynen's prior wish was not clear because his subsequent conduct was contrary to his wish – Mr. Reynen had accepted antipsychotic medication after his expressed wish (i.e., as he was tapering off the clozapine), and he had agreed to an increase of the medication (i.e., to deal with worsening symptoms as he was tapering off the clozapine).[61] Dr. Rogers further submitted that Mr. Reynen's prior wish did not apply to his current circumstances because what Mr. Reynen was doing recently – for example, threatening to kill his parents and threatening suicide – was contrary to what Mr. Reynen said he wanted to avoid as he tapered off and stopped his medication.[62] Without treatment, Mr. Reynen's psychosis would continue to worsen, resulting in indefinite hospitalization – a situation Mr. Reynen expressly indicated he did not want to be in when he was

[58] Transcript of Proceedings, p. 119.
[59] Transcript of Proceedings, pp. 128-129, 130-131.
[60] Exhibit 5: CCB Summary, Record of Proceedings Volume 1, p. 227/PDF p. 232.
[61] Transcript of Proceedings, pp. 140-141.
[62] Transcript of Proceedings, pp. 74-75, 86.

well.[63]

26. Mr. Reynen submitted that he continued to take antipsychotic medication after his written wish because he did not want to experience adverse effects of medication withdrawal if he had stopped taking the medication abruptly. He submitted that his most recently stated capable wish was clear and applied to his current situation.[64]

27. The Board found that Mr. Reynen made a clear wish when he was capable.[65] However, Mr. Reynen's wish was not applicable to his circumstances at the time of the CCB hearing.[66] The Board found that despite Mr. Reynen's claim that he wanted to stop clozapine because of the metabolic side effects, the true reason Mr. Reynen made his wish was because he believed he did not suffer from a mental illness that needed treatment with antipsychotic medication.[67] Due to Mr. Reynen's lack of insight into his mental illness and the need for treatment, Mr. Reynen did not recognize the severe consequences of stopping the antipsychotic medication, or appreciate that severe decompensation requiring hospitalization for the rest of his life was a foreseeable consequence.[68] The Board found that Mr. Reynen made a wish that would inevitably lead to severe decompensation, which is a circumstance Mr. Reynen never expected to be in. The Board found that Mr. Reynen had never decompensated to the point he had during this hospitalization, he would not have anticipated his current circumstances, and he would not have wanted to be in his

[63] Transcript of Proceedings, pp. 86-87, 140-141.
[64] Transcript of Proceedings, pp. 149-159.
[65] Reasons for Decision, Record of Proceedings Volume 1, p. 19/PDF p. 24.
[66] Reasons for Decision, Record of Proceedings Volume 1, p. 19/PDF p. 24.
[67] Reasons for Decision, Record of Proceedings Volume 1, p. 23, 25/PDF p. 28, 30.
[68] Reasons for Decision, Record of Proceedings Volume 1, p. 25, 28/PDF p. 30, 33.

current situation where he was at risk of being hospitalized for the rest of his life.[69]

28. The Board directed the SDM to give or refuse consent to the proposed treatment in accordance with s. 21(1)2 of the *Health Care Consent Act*.[70] The Board dismissed the Form E application as redundant.[71]

PART III: ISSUES AND THE LAW

A. Jurisdiction and Standard of Review

29. This appeal is brought pursuant to s. 80 of the *Health Care and Consent Act, 1996 ("HCCA")*[72], which grants the right to appeal a decision of the Consent and Capacity Board to the Superior Court of Justice on a question of law or fact or both. The court's powers on appeal are very broad, indicative of a legislative intent to create a system of robust appellate scrutiny. Section 80(10) of the *HCCA* provides the court with the following powers on appeal:

    a. Exercise all of the powers of the Board;

    b. Substitute its opinion for that of a health practitioner, an evaluator, a substitute decision-maker or the Board;

    c. Refer the matter back to the Board, with directions, for rehearing in whole or in part.[73]

30. Where the legislature has provided for an appeal to the court from an administrative decision – as is the case for the CCB – the court must apply appellate standards of

[69] Reasons for Decision, Record of Proceedings Volume 1, p. 28-29/PDF p. 33-34.
[70] Decision of the Board, dated May 15, 2025, Record of Proceedings Volume 1, p. 31/PDF p. 36.
[71] Order of the Board, dated May 15, 2025, Record of Proceedings Volume 1, p. 32/PDF p. 37.
[72] *Health Care Consent Act, 1996*.
[73] *Health Care Consent Act, 1996*, s. 80(10).

review to the decision.[74] The standard of review on questions of law is therefore one of correctness.[75] This includes questions of statutory interpretation and the scope of the decision-maker's authority.[76] This correctness standard means that a reviewing court need show no deference to the Board's reasoning process. Rather, the court should undertake its own analysis of the question, with a focus on whether the Board's decision was correct.[77]

31. On questions of fact, including inferences to be drawn, the appellate standard of review is palpable and overriding error.[78] On questions of mixed fact and law, palpable and overriding error is also the standard of review, unless an error in law or principle can be extricated for correctness review.[79] Palpable and overriding error can be understood as a standard of "clearly wrong." An appellate court may intervene if "there is an obvious error in the trial decision that is determinative of the outcome of the case."[80] Although the standard requires deference to the decision-maker, where the legislature has provided for an appeal of an administrative decision, the court is expected to scrutinize the decision, attracting a more rigorous and less deferential review than the standard of reasonableness.[81]

B. Law on Prior Capable Wishes

32. Section 5 of the *Health Care Consent Act* provides that a person, while capable, may

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[74] *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at para. 37.
[75] *Starson v. Swayze*, 2003 SCC 32 at paras. 5, 83-92, 110; *Vavilov* at para. 37.
[76] *Vavilov* at para. 37; *Housen v. Nikolaisen*, 2002 SCC 33 at para. 8.
[77] *Housen* at paras. 8-9.
[78] *Vavilov* at para. 37; *Housen*, at paras. 10, 19, 26-37.
[79] *Vavilov* at para. 37; *Housen* at paras. 10, 19, 26-37.
[80] *Salomon v. Matte-Thompson*, 2019 SCC 14 at para. 33.
[81] *Vavilov* at paras. 36, 46. See also *I.T. v. L.L.*, 1999 CanLII 19918 (ONCA); *M.(A.) v. Benes*, 1999 CanLII 3807 (ONCA), at para. 47.

express wishes with respect to treatment.[82] Wishes may be in the form of a power of attorney, in any other written form, orally, or in any other manner.[83] Wishes that are expressed later, while capable, prevail over earlier wishes.[84]

33. Section 35 of the *HCCA* allows a health practitioner to apply to the CCB to seek directions or clarification if the incapable person previously expressed a wish regarding treatment:

> **35(1)** Application for directions. – A substitute decision-maker or a health practitioner who proposed a treatment may apply to the Board for directions if the incapable person expressed a wish with respect to the treatment, but,
>
> **(a)** the wish is not clear;
>
> **(b)** it is not clear whether the wish is applicable to the circumstances;
>
> **(c)** it is not clear whether the wish was expressed while the incapable person was capable; or
>
> **(d)** it is not clear whether the wish was expressed after the incapable person attained 16 years of age.[85]

34. The primary consideration in substitute decision-making is to respect prior capable wishes. This principle is set out in the *HCCA*:

> **1** The purposes of this Act are, …
>
> **(c)** to enhance the autonomy of persons for whom treatment is proposed, persons for whom admission to a care facility is proposed and persons who are to receive personal assistance services by, …
>
> **(iii)** requiring that wishes with respect to treatment, admission to a care facility or personal assistance services, expressed by persons while capable and after attaining 16 years of age, be

[82] *Health Care Consent Act, 1996,* s. 5(1).
[83] *Health Care Consent Act, 1996*, s. 5(2).
[84] *Health Care Consent Act, 1996*, s. 5(3).
[85] *Health Care Consent Act, 1996*, s. 35(1).

adhered to;[86]

> **21 (1)** A person who gives or refuses consent to a treatment on an incapable person's behalf shall do so in accordance with the following principles:
>
> > **1.** If the person knows of a wish applicable to the circumstances that the incapable person expressed while capable and after attaining 16 years of age, the person shall give or refuse consent in accordance with the wish.[87]

35. The role of the CCB in an application brought under s. 35(1) of the *HCCA* is to determine whether there is a clear prior capable wish that applies in the circumstances before the Board. The Board must not usurp the role of the substitute decision-maker, or make a determination based on the best interests of the patient.[88]

C. Grounds of Appeal

i) The ground of appeal raised by the appellant

36. The appellant argues in his factum that the *Health Care Consent Act* and the *Mental Health Act* violate his freedom of religion, as guaranteed by section 2(a) of the *Charter*. His position is that psychotropics are "sin". He asks the court for a "constitutional remedy", though he has not specified the constitutional remedy he is seeking.

37. If the court would find it helpful, and should the court so order, *amicus* can provide a legal memorandum on this issue.

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[86] *Health Care Consent Act, 1996*, s. 1(c)(iii).
[87] *Health Care Consent Act, 1996*, s. 21(1)1.
[88] *Friedberg v. Korn*, 2013 ONSC 960 at para. 61.

ii) The ground of appeal raised by *Amicus Curiae*

38. *Amicus* raises the following additional ground of appeal: that the Board erred in its determination that Mr. Reynen's prior capable wish did not apply to his circumstances at the time of his hearing before the Board. *Amicus* further submits that had the Board undertaken the correct analysis, the Board would have concluded that Mr. Reynen's prior capable wish applied to his circumstances at the time of the CCB hearing.

39. In deciding Dr. Rogers' Form D application, the CCB had to determine: (1) whether Mr. Reynen had made a prior wish that was clear; (2) whether Mr. Reynen was capable when he made his wish; and (3) and whether the wish applied to Mr. Reynen's circumstances at the time of the CCB hearing.[89] The wish at issue was made by Mr. Reynen, in writing, in July of 2024: "I never, ever, wish to be put on any psychotropic medication (including antipsychotics, antidepressants, etc.) ever again. Under any circumstance."[90]

40. The Board found that Mr. Reynen's wish was clear. Although the Board had reservations about whether Mr. Reynen was capable at the time he made this wish, the Board nevertheless found that Mr. Reynen had made a prior capable wish:

> I found it was questionable whether SR was truly capable at the time he wrote his wish with respect to treatment with psychotropic medication. However, given Dr. Baines' evidence that SR had reached capacity for treatment decisions, I proceeded with my analysis on the basis that SR was presumed capable when he wrote his wish.

[89] *Health Care Consent Act, 1996*, s. 35(1).
[90] Exhibit 2, Record of Proceedings Volume 1, pp. 223-224/PDF pp. 228-229.

I therefore found SR had made a clearly expressed prior capable wish.[91]

41. In determining whether this prior capable wish applied to Mr. Reynen's circumstances at the time of the CCB hearing, the Board focused much of its analysis on whether Mr. Reynen was actually capable with respect to treatment with psychotropic medication when he made the July 2024 written wish. Throughout its analysis on whether the prior capable wish applied in the circumstances, the Board made the following comments about Mr. Reynen's capacity with respect to treatment:

a. **Page 11 of Reasons:** I would first like to address the issue of SR's insight into his mental illness and the need for treatment. This will be important in considering whether SR had true appreciation of the consequences of not accepting treatment when he wrote the letter of July 2024 expressing his wish with respect to the treatment.[92]

b. **Pages 12-13 of Reasons:** *[after quoting Dr. Baines' note from November 2023]* This clearly was an indication of incapacity. If you are not able to acknowledge that your symptoms are manifestations of a mental condition that needs treatment with psychotropic medication, you clearly fail the second branch of the capacity test. (As per *Starson v. Swayze*, [2003] S.C.C. 32)

…

There was no mention in the subsequent notes that SR's insight in this regard ever improved. The fact that he continued to want to be off medication hoping to be able to manage his symptoms without treatment suggested that he continued to believe that he did not have a mental condition that required treatment with antipsychotic medication. He continued to believe he was the target of some experiment. This to me suggested that there was no real change in his insight. [93]

c. **Page 13 of Reasons:** In such case, I wondered how SR could have been capable. The only reason I could think of why Dr. Baines may have deemed him capable in June 2024 (notwithstanding the obvious contradiction presented by his deeply entrenched belief of being the target

[91] Reasons for Decision, Record of Proceedings Volume 1, p. 19/PDF p. 24.
[92] Reasons for Decision, Record of Proceedings Volume 1, p. 19/PDF p. 24.
[93] Reasons for Decision, Record of Proceedings Volume 1, p. 20-21/PDF p. 25-26.

of some experiment) would be to preserve the therapeutic relationship and keep SR on board with treatment.[94]

d. **Page 13 of Reasons:** As noted above, it was noted throughout Dr. Baines [*sic*] notes (right up to June 2024 when he was deemed capable) that SR's insight was partial, and I accepted that as a fact that notwithstanding that SR was deemed capable, his insight into his mental condition and the need for treatment was partial at best.

   However, as I noted earlier in these reason [*sic*], given Dr. Baines [*sic*] evidence, I proceeded with my analysis on the basis that SR was presumed capable when he wrote the wish.[95]

e. **Page 15 of Reasons:** I therefore did not agree with the submission that SR made the wish not to take any psychotropic medication because of the side effects. While that was his stated reason, I found his reason for not taking antipsychotic medication was his belief that he did not suffer from a mental illness that needed treatment with antipsychotic medication.

   …

   The 2nd branch of the test for capacity is "ability to appreciate the reasonably foreseeable consequences", not actual appreciation. While the legal test for capacity is simply the "ability to appreciate", in my view to make to a capable wish applicable to all future circumstances, no matter what the consequences, there needs to more than mere ability to appreciate. When a capable person makes a treatment decision that may be seen as unwise, the person is allowed to do so, however an incapable person should not be deprived of treatment (which is one of the purposes of the HCCA) because of a prior capable wish without making some inquiries into the person's understanding and appreciation of the consequences of the wish.[96]

f. **Page 17 of Reasons**: I found that due to his lack of insight into his mental illness and the need for treatment, he did not recognize the severe consequences of stopping the antipsychotic medication.[97]

g. **Page 20 of Reasons:** While his current situation may have been a foreseeable consequence, what's important is whether SR had the appreciation to recognize this foreseeable consequence given his partial insight – I found he did not.[98]

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[94] Reasons for Decision, Record of Proceedings Volume 1, p. 21/PDF p. 26.
[95] Reasons for Decision, Record of Proceedings Volume 1, p. 21/PDF p. 26.
[96] Reasons for Decision, Record of Proceedings Volume 1, p. 23/PDF p. 28.
[97] Reasons for Decision, Record of Proceedings Volume 1, p. 25/PDF p. 30.
[98] Reasons for Decision, Record of Proceedings Volume 1, p. 28/PDF p. 33.

h. **Page 20 of Reasons:** I found SR, due to his partial insight, did not appreciate and envisage the severity of the decompensation that was likely to result from stopping the antipsychotic medication. No matter what Dr. Baines may have told him, he was firm in his belief that he did not have a mental illness and therefore did not need the antipsychotic medication. His appreciation was superficial. He had this unrealistic hope, like many patients suffering from schizophrenia, that he would be able to manage his symptoms without medication. I therefore found that while SR may have had some appreciation that there was a risk of relapse in stopping antipsychotic medication, he likely did not appreciate the severity of that relapse. He likely did not appreciate that he could potentially end up in hospital for the rest of his life.[99]

42. The Board then used its determination that Mr. Reynen "did not have a true appreciation of the consequences" of refusing treatment with antipsychotic medication to find that his prior capable and clear wish did not apply to his current circumstances:

> Notwithstanding having been deemed capable at law meaning that he had the ability to appreciate the reasonably foreseeable consequences, given his partial insight I found SR did not have a true appreciation of the consequences and likely would not have anticipated the extreme consequences he was faced with currently and therefore his circumstance had changed. The wish was therefore inapplicable to his circumstance.
>
> …
>
> As noted earlier in these reasons, notwithstanding my doubt, I accepted Dr. Baines' evidence that SR was deemed capable at the time he made his wish not to receive treatment with any psychotropic medication.[100]

43. *Amicus* submits that the Board erred in law in this approach. Once the Board found that Mr. Reynen was capable when he made his prior clear wish, it was an error of law for the Board to conduct its own capacity assessment of Mr. Reynen going back to the summer of 2024. The evidence before the Board, which the Board accepted, was that Dr. Baines found Mr. Reynen capable with respect to treatment with

[99] Reasons for Decision, Record of Proceedings Volume 1, p. 28/PDF p. 33.
[100] Reasons for Decision, Record of Proceedings Volume 1, p. 29/PDF p. 34.

antipsychotic medication in June of 2024. The treatment referenced in Mr. Reynen's July 2024 wish included the same treatment he had been found capable of the month prior: antipsychotic medication. Once the Board found that Mr. Reynen was capable when he made his prior clear wish, the only decision left for the Board to determine was whether Mr. Reynen's prior wish applied to his circumstances before the Board.

44. The treatment at issue at the time of the CCB hearing in May 2025 was the same treatment referred to in Mr. Reynen's prior capable wish: antipsychotic medication. *Amicus* submits that had the Board conducted the analysis it was required to undertake, the Board would have concluded that Mr. Reynen's prior wish applied to his circumstances at the time of the CCB hearing.

45. The following paragraphs from *Re MF*[101] are helpful in determining whether a prior capable wish applies to the person's current circumstances:

> Other than that it must be capable, what is the nature of wish the legislation contemplates? According to s. 42 (1), it is a wish "applicable to the circumstances." Put differently, the wish needs either enough specificity to relate to the person's situation at the time of the Hearing or enough breadth to be applicable to the proposed treatment or admission regardless of the circumstances.
>
> Generally, there are three types of wishes one might express regarding a treatment or care decision. The first arises out of deeply held beliefs, such as the wish of a Jehovah's witness not to receive a blood transfusion. The second responds to an imminent extenuating circumstance, such as major and risky surgery. The third category is a general expression of sentiment in contemplation of an uncertain future.
>
> In the first category, the beliefs underlying the wish are likely to be concrete and therefore precise. There is likely certainty to the wish and its applicability to the circumstances however far in advance it was made: "Under no circumstances give me a blood transfusion."

[101] *MF (Re)*, 2003 CanLII 54897 (ON CCB) at pp. 7-8.

> In the second category, the person expressing the wish is anticipating what the near future holds. In the case of major surgery, a person will have the benefit of medical advice including an assessment of the risks and range of outcomes. The time frames are constrained. Considerations other than the risks and results of the procedure, such as family and finances, are predictable in the short term, before the vagaries of life have much time to interfere in plans. The instruction given to a substitute decisionmaker is based upon that current information. Such a wish is therefore likely to be made with certainty and with realistic application to the person's circumstances.
>
> In the third category, the person expressing the wish anticipates something that, if it does transpire, will take place in the indeterminate future. Surrounding circumstances may change from the time the wish is expressed to the time it might be applicable. Life can be unpredictable. In the first two cases, the wish and the circumstances to which it applies are concrete.
>
> In the third situation, fate might foil the best laid plans. The legislation qualifies the obligation of a substitute decision-maker to give effect to advance directives by requiring that the wish be applicable to the circumstances. The wish needs a framework of relevance to the time it might be implemented.

46. Mr. Reynen's wish falls into the third category: he expressed a wish in contemplation of the indeterminate future. Mr. Reynen's wish is clear, unequivocal, and unqualified: it references his diagnosis (schizoaffective disorder), his treatment at the time he made the wish (68.75mg of clozapine, down from 250mg), the future treatment his wish applies to (psychotropic medication, including antipsychotics), and when he wants his wish to apply ("under any circumstance").[102] *Amicus* submits that Mr. Reynen's wish is broad enough that it applies any time psychotropic medication is contemplated.

47. In deciding Form D applications, the CCB may find that the person could not have predicted or imagined their current circumstances at the time that they made their prior capable wish, and as such, the prior wish does not apply to their present

[102] Exhibit 2, Record of Proceedings Volume 1, pp. 223-224/PDF pp. 228-229.

circumstances.[103] But that cannot be said of Mr. Reynen's wish.

48. At the time that Mr. Reynen made his wish, he had been living with the diagnosis of schizoaffective disorder/schizophrenia for six years.[104] Over those six years, he was treated with various antipsychotic medications, in both oral and injectable formats.[105] He had experienced significant metabolic side-effects from being treated with antipsychotics, including becoming morbidly obese.[106] He had experienced at least seven psychiatric hospitalizations, one of which was 1.5 years in duration.[107] He had been told by his psychiatrist Dr. Baines, multiple times, that the risk of relapse without antipsychotic medication was 95% likely, and that one in six people who discontinue an antipsychotic medication will not respond to it if it is restarted.[108] Mr. Reynen himself was being treated with medication reserved for people with treatment-resistant schizophrenia after previously stopping his last antipsychotic medication and being admitted to hospital for 1.5 years.[109] Mr. Reynen consequently had a clear understanding and appreciation of his diagnosis of schizophrenia, and what treatment vs. non-treatment with antipsychotic medication meant at the time he made his wish.

49. At the time of the CCB hearing, Mr. Reynen found himself in circumstances that were predictable given his decision to reduce/stop his clozapine (a decision he acknowledges in his wish letter). Mr. Reynen was involuntarily admitted to hospital

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[103] See for example *MO (Re)*, 2019 CanLII 110013 (ON CCB); *F (Re)*, 2009 CanLII 53019 (ON CCB); *MQ (Re)*, 2015 CanLII 59044 (ON CCB).
[104] Transcript of Proceedings, p. 14
[105] Transcript of Proceedings, pp. 15-18, 20, 22.
[106] Transcript of Proceedings, pp. 48, 83-84.
[107] Transcript of Proceedings, pp. 13-16.
[108] Transcript of Proceedings, pp. 32-33, 46-47.
[109] Transcript of Proceedings, p. 22.

following a decompensation of his schizophrenia – which is the same psychotic illness he acknowledged having in his wish letter. According to Dr. Rogers, Mr. Reynen's illness during this hospitalization was progressing as expected within a range of expectation. He was no sicker at the time of the hearing than he could have contemplated.[110] The extent of his mental deterioration, the increasing intensity of his delusions, his more erratic and unpredictable behaviour, his increasing dysregulation and lability, his increasing hostility, threatening behaviour and risk of suicide were not surprising and were as anticipated.[111] At the time of the CCB hearing, Dr. Rogers wanted to treat Mr. Reynen with antipsychotic medication, which is the same treatment that Mr. Reynen's prior wish deals with. *Amicus* submits that because Mr. Reynen's decompensation in May of 2025 was as expected following discontinuation of treatment with antipsychotic medication, Mr. Reynen's July 2024 wish is applicable to his current circumstances involving treatment or non-treatment of his psychotic illness.

PART IV: ORDER REQUESTED

50. The appellant requests that the appeal be allowed and that the decision of the Consent and Capacity Board be quashed. He asks this Court to find that his prior capable wish applies to his current circumstances; or, in the alternative, asks that a new hearing be ordered before a differently constituted panel of the Consent and Capacity Board.[112]

[110] Transcript of Proceedings, p. 119.
[111] Transcript of Proceedings, pp. 128-129, 130-131.
[112] *Health Care Consent Act, 1996*, s. 80(10).

All of which is respectfully submitted.

Dated at Ottawa this 26th day of September 2025.

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Amicus Curiae

SCHEDULE A: AUTHORITIES TO BE CITED

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65

F (Re), 2009 CanLII 53019 (ON CCB)

Friedberg v. Korn, 2013 ONSC 960

Housen v. Nikolaisen, 2002 SCC 33

I.T. v. L.L., 1999 CanLII 19918 (ONCA)

M.(A.) v. Benes, 1999 CanLII 3807 (ONCA)

MF (Re), 2003 CanLII 54897 (ON CCB)

MO (Re), 2019 CanLII 110013 (ON CCB)

MQ (Re), 2015 CanLII 59044 (ON CCB)

SR (Re), 2025 CanLII 27115 (ON CCB)

Salomon v. Matte-Thompson, 2019 SCC 14

Starson v. Swayze, 2003 SCC 32

SCHEDULE B: LEGISLATION TO BE CITED

Health Care Consent Act*,* S.O. 1996, Chapter 2, Schedule A, as amended Sections 4, 80.

Purposes

1 The purposes of this Act are,

(a) to provide rules with respect to consent to treatment that apply consistently in all settings;

(b) to facilitate treatment, admission to care facilities, and personal assistance services, for persons lacking the capacity to make decisions about such matters;

(c) to enhance the autonomy of persons for whom treatment is proposed, persons for whom admission to a care facility is proposed and persons who are to receive personal assistance services by,

(i) allowing those who have been found to be incapable to apply to a tribunal for a review of the finding,

(ii) allowing incapable persons to request that a representative of their choice be appointed by the tribunal for the purpose of making decisions on their behalf concerning treatment, admission to a care facility or personal assistance services, and

(iii) requiring that wishes with respect to treatment, admission to a care facility or personal assistance services, expressed by persons while capable and after attaining 16 years of age, be adhered to;

(d) to promote communication and understanding between health practitioners and their patients or clients;

(e) to ensure a significant role for supportive family members when a person lacks the capacity to make a decision about a treatment, admission to a care facility or a personal assistance service; and

(f) to permit intervention by the Public Guardian and Trustee only as a last resort in decisions on behalf of incapable persons concerning treatment, admission to a care facility or personal assistance services. 1996, c. 2, Sched. A, s. 1.

Wishes

5 (1) A person may, while capable, express wishes with respect to treatment, admission to a care facility or a personal assistance service. 1996, c. 2, Sched. A, s. 5 (1).

Manner of expression

(2) Wishes may be expressed in a power of attorney, in a form prescribed by the regulations, in any other written form, orally or in any other manner. 1996, c. 2, Sched. A, s. 5 (2).

Later wishes prevail

(3) Later wishes expressed while capable prevail over earlier wishes.

Principles for giving or refusing consent

21 (1) A person who gives or refuses consent to a treatment on an incapable person's behalf shall do so in accordance with the following principles:

1. If the person knows of a wish applicable to the circumstances that the incapable person expressed while capable and after attaining 16 years of age, the person shall give or refuse consent in accordance with the wish.

2. If the person does not know of a wish applicable to the circumstances that the incapable person expressed while capable and after attaining 16 years of age, or if it is impossible to comply with the wish, the person shall act in the incapable person's best interests. 1996, c. 2, Sched. A, s. 21 (1).

Application for directions

35 (1) A substitute decision-maker or a health practitioner who proposed a treatment may apply to the Board for directions if the incapable person expressed a wish with respect to the treatment, but,

(a) the wish is not clear;

(b) it is not clear whether the wish is applicable to the circumstances;

(c) it is not clear whether the wish was expressed while the incapable person was capable; or

(d) it is not clear whether the wish was expressed after the incapable person attained 16 years of age. 1996, c. 2, Sched. A, s. 35 (1); 2000, c. 9, s. 33 (1).

Notice to substitute decision-maker

(1.1) A health practitioner who intends to apply for directions shall inform the substitute decision-maker of his or her intention before doing so. 2000, c. 9, s. 33 (2).

Parties

(2) The parties to the application are:

1. The substitute decision-maker.

2. The incapable person.

3. The health practitioner who proposed the treatment.

4. Any other person whom the Board specifies. 1996, c. 2, Sched. A, s. 35 (2).

Directions

(3) The Board may give directions and, in doing so, shall apply section 21.

Appeal

80 (1) A party to a proceeding before the Board may appeal the Board's decision to the Superior Court of Justice on a question of law or fact or both. 1996, c. 2, Sched. A, s. 80 (1); 2000, c. 9, s. 48.

Time for filing notice of appeal

(2) The appellant shall serve his or her notice of appeal on the other parties and shall file it with the court, with proof of service, within seven days after he or she receives the Board's decision. 1996, c. 2, Sched. A, s. 80 (2).

Notice to Board

(3) The appellant shall give a copy of the notice of appeal to the Board. 1996, c. 2, Sched. A, s. 80 (3).

Record

(4) On receipt of the copy of the notice of appeal, the Board shall promptly serve the parties with the record of the proceeding before the Board, including a transcript of the oral evidence given at the hearing, and shall promptly file the record and transcript, with proof of service, with the court. 1996, c. 2, Sched. A, s. 80 (4).

Time for filing appellant's factum

(5) Within 14 days after being served with the record and transcript, the appellant shall serve his or her factum on the other parties and shall file it, with proof of service, with the court. 1996, c. 2, Sched. A, s. 80 (5).

Time for filing respondent's factum

(6) Within 14 days after being served with the appellant's factum, the respondent shall serve his or her factum on the other parties and shall file it, with proof of service, with the court. 1996, c. 2, Sched. A, s. 80 (6).

Extension of time

(7) The court may extend the time for filing the notice of appeal, the appellant's factum or the respondent's factum, even after the time has expired. 1996, c. 2, Sched. A, s. 80 (7).

Early date for appeal

(8) The court shall fix for the hearing of the appeal the earliest date that is compatible with its just disposition. 1996, c. 2, Sched. A, s. 80 (8).

Appeal on the record, exception

(9) The court shall hear the appeal on the record, including the transcript, but may receive new or additional evidence as it considers just. 1996, c. 2, Sched. A, s. 80 (9).

Powers of court on appeal

(10) On the appeal, the court may,

(a) exercise all the powers of the Board;

(b) substitute its opinion for that of a health practitioner, an evaluator, a substitute decision-maker or the Board;

(c) refer the matter back to the Board, with directions, for rehearing in whole or in part. 1996, c. 2, Sched. A, s. 80 (10).

SCHEDULE C: COPY OF ORDER APPOINTING AMICUS CURIAE

Court File Number: CV-25-99970

ONTARIO SUPERIOR COURT OF JUSTICE
(East Region)

IN THE MATTER OF the funding of *Amicus Curiae* to assist the court

THE HONOURABLE JUSTICE FLAHERTY	)))))	Monday, the 18th day of August, 2025

IN THE MATTER OF an appeal from a decision of the
Consent and Capacity Board,
Pursuant to the ***Health Care Consent Act***, 1996, S.O. 1996, c.2, Schedule A
As amended

B E T W E E N

STEVEN LEONARD REYNEN

Appellant

- and –

DR. TABITHA ROGERS;
THE PUBLIC GUARDIAN AND TRUSTEE

Respondents

AMICUS ORDER

THIS APPOINTMENT made by the Court for an Order appointing *amicus curiae* was heard on the 13th day of August 2025.

ON HEARING the oral submissions of the parties.

THIS COURT ORDERS THAT:

1. A period of 15 days be provided to allow Legal Aid Ontario ("LAO") to investigate the Appellant's legal aid status.

2. In the event that the Appellant does not have a legal aid certificate, *amicus curiae* be appointed for this appeal within a further 15 days pursuant to Rule 13.02 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg 194 (the "Rules") and the inherent jurisdiction of the Superior Court: *Ontario v. Criminal Lawyers' Association of Ontario*, 2013 S.C.C. 43.

3. An appropriate representative from LAO notify counsel Ms. Meaghan McMahon, who will be appointed as *amicus curiae*.

4. *Amicus* has consented to abide by Legal Aid Ontario's policies and procedures, including authorization for disbursements, budget setting, monitoring and review of accounts, billing practices, and payment rules;

5. *Amicus* shall promptly provide Legal Aid Ontario with a copy of this order;

6. *Amicus* is being appointed to assist this court, as follows:

    a. To review the Record of Proceedings and other relevant documents pertaining to the appeal;

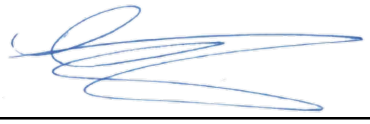
    b. To produce, serve and file a factum addressing the issues in the appeal; and

    c. To make oral submissions at the hearing of the appeal.

7. *Amicus* agrees to promptly advise Legal Aid Ontario if this court subsequently alters the scope of this appointment;

8. Legal Aid Ontario shall manage funding of *amicus* in accordance with this order and Legal Aid Ontario's policies and procedures, including authorization for disbursements, monitoring and review of accounts, billing practices, and payment rules; and

9. The parties shall promptly return to court to address necessary variations or in the event of non-compliance with this order.



THE HONOURABLE JUSTICE FLAHERTY

Issuance on August 20, 2025

STEVEN REYNEN
Appellant

-and- DR. TABITHA ROGERS
Respondent

Court File No. CV-25-99970

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
OTTAWA

AMICUS ORDER

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CV-25-00099970-0000

ONTARIO SUPERIOR COURT OF JUSTICE

B E T W E E N:

STEVEN LEONARD REYNEN

Appellant

-and-

DR. TABITHA ROGERS

Respondent

-and-

PUBLIC GUARDIAN AND TRUSTEE

Respondent

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