

In the Provincial Court of Alberta

Docket: _____

File #: _____

Application under Section XXXXX [21.1(5), 21.1(2), 26(2), 32(3), 33(5)]

Of the *Child, Youth and Family Enhancement Act*

BETWEEN:

(print your full name)

Applicant / Respondent to the Director’s Application

-and-

Alberta (Child, Youth and Family Enhancement Act, Director)

Respondent

Heard before the Honourable Judge _____

Calgary Family Court

on _____, 2014

ORDER FOR ADJOURNMENT PENDING THE APPOINTMENT OF COUNSEL FOR THE APPLICANT

Having heard from the Applicant, _____ and

Having Considered the findings of the Supreme Court of Canada in *New Brunswick (Minister of Health and Community Services) v. G. (I)*, [1999] 3 SCR 46 that a child guardianship application by government constitutes a potential restriction of a parent’s right to security of the person and therefore protected by Section 7 of the Charter, and that the interests of fundamental justice in child protection proceedings are both substantive and procedural, and

Having Further Considered the factors to be considered in the appointment of state-funded counsel as described in *R. v. Smart*, 2014 ABPC 175.

THE COURT FINDS THAT:

1. The Applicant has sought the assistance of Legal Aid and been denied the appointment of counsel and has exhausted, or is not eligible for, any appeal process.
2. The Applicant’s financial situation prevents him from retaining legal counsel, or prevents him from retaining legal counsel at this time or within a reasonable time.
3. The Director’s Application on behalf of the Government of Alberta is serious and could deprive the Applicant of his section 7 Charter rights.
4. The issues and procedures in this matter are complex and the Applicant cannot be reasonably expected to defend himself in this matter.

THE COURT ORDERS THAT:

1. This matter shall be adjourned under section _____ of the *Child, Youth and Family Enhancement Act*, R.S.A. 2000, c. C-12 to _____.
2. The Attorney General of Alberta shall

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a. Make provision and provide for counsel for the Applicant at no less than the standard Legal Aid hourly rate; and

b. Confirm to the court within 7 days that Legal Aid Alberta has been directed to provide counsel for the Applicant at no less than the standard Legal Aid hourly rate.

XXXXXXXXXXXXXXXXXX, J.P.C.A.

Appearances:

For the Director: _____

For the Applicant: _____