

June 1, 2021

The SCC Leave Project: Predictions for June 3, 2021

Here's a look at the leave application decisions that the Supreme Court of Canada will be releasing on June 3, 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 four leave applications decisions coming out on June 3, 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. This week, we will provide a prediction for all of the cases.

You can find a detailed summary of all the cases that are up for leave decisions this week here.

Possible Contenders

RS v WG

During the parties' divorce, a Tunisian court granted provisional custody of the parties' child to the respondent. Shortly thereafter, the respondent fled to Quebec and applied for refugee status. The applicant applied for the child's return, which was granted by the Quebec Superior Court. The Court of Appeal overturned that decision, concluding that the Tunisian court provisionally granted custody, but did not make an order preventing the child from leaving the country.

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

Unlikely Contenders

Season Alexandre Cardinal Truax v Her Majesty the Queen

The applicant was convicted of drug related charges relating to the importation and trafficking of methamphetamine. She was communicating with an individual whose communications were being lawfully intercepted by the police, though she was not the target of the investigation. When the Crown sought to tender her communications at trial, she applied for a disclosure order seeking the make and model of the Mobile Device Identifier used to track the subjects of the wiretap order when they changed phones. Her application was dismissed on the grounds of investigative privilege, and the Court of Appeal dismissed the appeal.

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

*Roch Guimont, Constance Guimont v Her Majesty the Queen
(Public Prosecution Service of Canada)*

The applicants sold night vision goggles to foreign buyers online. They were convicted of possessing and exporting the goggles, which are controlled goods. After the proceedings were stayed due to unreasonable delays, the Crown moved to dispose of the goggles, and the applicants applied for their return. The motion judge ordered that the goggles be forfeited, and the Quebec Court of Appeal dismissed the applicants' appeal.

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

Kevin Wagar v Her Majesty the Queen

The applicant pleaded guilty to two counts of fraud over \$5,000 and was sentenced to five and a half years' imprisonment. The Ontario Court of Appeal granted leave to appeal the sentence and dismissed the appeal, holding that mental illness was not a factor to be considered in determining a fit sentence.

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

UPDATE ON JUNE 3: WHAT HAPPENED THIS WEEK?

All four of this week's applications for leave to appeal to the Supreme Court of Canada were dismissed. This is consistent with our model's predictions, which indicated that that only one case was a possible contender with a 12% chance of getting leave, and the others were unlikely contenders with a 4% chance of getting leave.