

McDougall Gauley

Joseph J. Dierker, Q.C.*
Gordon J. Kishi, Q.C.
Terence G. Grat, Q.C.

Lawrence F. Seiferling, Q.C.*

Robert N. Millar

William J. Shaw*

Patrick A. Kelly, Q.C.

David J. McKeague, Q.C.*

Lynn A. Smith

Kenneth A. Ready, Q.C.

Nancy E. Hopkins, Q.C.*

Rex M. Beaton*

Michael W. Millard, Q.C.

W. Randall Rooke, Q.C.*

Aaron A. Fox, Q.C.

Gary A. Zabus*

Neil B. Fisher*

Philip J. Gallet

Wayne L. Bernakevitch

Ronald L. Miller, Q.C.*

Raymond Wiebe*

Brian M. Banilevic

Murray R. Sawatzky

James A. Morrison*

Ian A. Sutherland*

Susan B. Barber

Richard W. Danyliuk*

Kevin A. Lang

Brent D. Barilla*

James N. Koepan

Erin M. S. Kleisinger

Stuart J. Wicjowski

Christopher C. Boychuk*

Stephanie L. Tynan*

William A. Nickel*

Neal W. Caldwell*

Jale G. Linn, Q.C.*

Garyl E. Labach*

Eugene T. Harmet

Barry D. Bridges**

Melissa A. Brunson*

E. Craig Lothian

Heather J. Laing*

James F. Rybchuk

Sherry L. Fitzsimmons*

Jayne C. Krueger

Amanda M. Quayle

G. Brett Ledingham

Scott M. Wickenden*

Foster J. Weisgerber

Michelle L. Heiser*

Paul G. Wagner

Scott D. Waters*

Ryan J. Laidlaw

Megan D. Dolo

Christine M. Johnston*

Michael R. Alford

Kendra L. Chorney

Louis A. Browne

Chad W. Haaf*

Jenny L. Hoffman*

Tamara R. Prince

Counsel
D.E. Gauley, Q.C.*
H.H. Dahlem, Q.C.*

* Resident in Saskatoon

** Resident in Estevan

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2010 - 11th Avenue
Regina, Saskatchewan
S4P 0J3

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March 30, 2004

IN YOUR REPLY, PLEASE
REFER TO: File #508216-1 AAF
Mr. Aaron A. Fox, Q.C.
Direct Line: (306) 565-5147
afox@mcdougallgauley.com

Commission of Inquiry Into the
Wrongful Conviction of David Milgaard
1020 - 606 Spadina Crescent East
Saskatoon, SK S7K 3H1

Attention: Mr. Douglas C. Hodson,
Commission Counsel

Dear Mr. Hodson:

Re: Commission of Inquiry into the Wrongful Conviction
of David Milgaard
Application for Standing and Funding by Eddie Karst

Please be advised we are counsel for Mr. Eddie Karst, a former member of the Saskatoon Police Service. Mr. Karst wishes to apply to both standing and funding at the Commission of Inquiry into the Wrongful Conviction of David Milgaard. In this regard I enclose herein for filing with you the following:

1. Application on behalf of Mr. Karst for Funding; and
2. Affidavit of Eddie Karst.

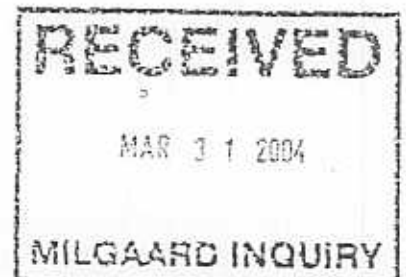
Yours sincerely,



AARON A. FOX, Q.C.

AAF/le
Enclosures

cc: Mr. Chris Boychuk
(with enclosures)



**COMMISSION OF INQUIRY INTO THE WRONGFUL CONVICTION OF
DAVID MILGAARD**

**APPLICATION FOR STANDING AND FUNDING BY FORMER
DETECTIVE SERGEANT EDDIE KARST,
FORMERLY OF THE SASKATOON POLICE SERVICE**

TO:

**HONOURABLE MR. JUSTICE EDWARD P. MacCALLUM,
COMMISSIONER OF THE COMMISSION OF INQUIRY
INTO THE WRONGFUL CONVICTION OF DAVID MILGAARD**

TAKE NOTICE that Eddie Karst, formerly of the Saskatoon Police Service, makes application for standing and for funding at the Commission of Inquiry into the Wrongful Conviction of David Milgaard.

AND FURTHER TAKE NOTICE that the application for standing is based on the following:

The Applicant, Eddie Karst, is a former member of the Saskatoon Police Service. He joined the Saskatoon Police Service in 1954 and retired in 1989 with the rank of Detective Sergeant.

At the time of the death of Gail Miller, the Applicant the rank of Detective. After the death of Gail Miller he was assigned to investigate the file. As a consequence he interviewed and obtained statements from a number of people, including David Milgaard. Mr. Karst testified at David Milgaard's trial. He also appeared before the Supreme Court of Canada to review with the Court the investigation that had been carried out of the Gail Miller murder and the resulting charging and conviction of David Milgaard. To his knowledge he was the only member of the Saskatoon Police Service who

was summonsed to appear before the Supreme Court of Canada on this matter.

Mr. Karst has been advised that he will be called as a witness at the Inquiry.

For the reasons noted above the Applicant, Eddie Karst, is directly and substantially affected by the Inquiry.

AND FURTHER TAKE NOTICE that the Applicant makes application for funding based on the following criteria:

- a) That it is respectfully submitted that the Applicant should be granted standing at the Inquiry;
- b) Although the Applicant has not requested that this Inquiry take place he will nonetheless be called as a witness and will be substantially and directly affected by the Inquiry as the Inquiry will delve into "any and all aspects of the conduct of the investigation into the death of Gail Miller and subsequent criminal proceedings resulting in the wrongful conviction of David Edgar Milgaard on the charge that he murdered Gail Miller". The Applicant's role in the investigation of the death of Gail Miller will undoubtedly be a focal point of the Inquiry;
- c) The Applicant is retired and does not have sufficient financial resources to enable him to adequately represent his interests;
- d) The Applicant has requested that Aaron A. Fox, Q.C., Barrister and Solicitor of the firm McDougall Gauley, be his counsel at the Inquiry. All statements of account for services rendered will be provided by Mr. Fox and forwarded

to the Commissioner of the Inquiry from time to time as services are rendered. Mr. Christopher Boychuk, Barrister and Solicitor of the firm McDougall Gauley, will also act as counsel from time to time.

AND FURTHER TAKE NOTICE that in support of this application is filed the Affidavit of Eddie Karst.

IT IS RESPECTFULLY REQUESTED that the Commissioner of the Commission of Inquiry into the Wrongful Conviction of David Milgaard order the following:

1. That standing be granted to Eddie Karst, formerly of the Saskatoon Police Service, at the said Commission of Inquiry; and
2. That the Applicant, Eddie Karst, be granted funding to retain Aaron A. Fox, Q.C. as his counsel at the Inquiry, along with Christopher Boychuk as junior counsel, at such hourly rates and on such terms as the Commissioner may deem appropriate including an appropriate fee for the time required to review the material and prepare for the Inquiry as well as any disbursements as may reasonably be incurred.

DATED at the City of Regina, in the Province of Saskatchewan, this 29th day of March, A.D. 2004.

McDOUGALL GAULEY

Per: 

AARON A. FOX, Q.C.
Counsel for the Applicant,
Eddie Karst.

TO: The Commission of Inquiry Into the Wrongful
Conviction of David Milgaard
1020 – 606 Spadina Crescent East
Saskatoon, Saskatchewan
S7K 3H1

AND TO: Mr. Douglas C. Hodson
Counsel for the Inquiry

This Application was delivered by:

McDougall Gauley
Barristers and Solicitors
700 - 2010 - 11th Avenue
Regina, SK S4P 0J3

Address for Service is: Same as above
Lawyer in Charge of File: Aaron A. Fox, Q.C.
Telephone: (306) 565-5147
Fax No.: (306) 359-0785

COMMISSION OF INQUIRY INTO THE WRONGFUL CONVICTION OF
DAVID MILGAARD

APPLICATION FOR STANDING AND FUNDING BY FORMER
DETECTIVE SERGEANT EDDIE KARST,
FORMERLY OF THE SASKATOON POLICE SERVICE

TO:

HONOURABLE MR. JUSTICE EDWARD P. MacCALLUM,
COMMISSIONER OF THE COMMISSION OF INQUIRY
INTO THE WRONGFUL CONVICTION OF DAVID MILGAARD

AFFIDAVIT OF EDDIE KARST

I, EDDIE KARST, of the City of Saskatoon, in the Province of Saskatchewan,
Retired Peace Officer, MAKE OATH AND SAY AS FOLLOWS THAT:

1. I have personal knowledge of the facts and matters herein deposed to except where stated to be upon information and belief and where so stated I do verily believe the same to be true.
2. I was a member of the Saskatoon Police Service from 1954 to 1989, eventually retiring with the rank of Detective Sergeant. At the time of the death of Gail Miller I had the rank of Detective.
3. I was assigned to assist in the investigation of the death of Gail Miller. To this extent I interviewed and obtained statements from a number of people including David Milgaard. I testified at Mr. Milgaard's trial. I also testified before the Supreme Court of Canada in its review of the conviction of Mr. Milgaard. To the best of my knowledge and belief I was the only member of the Saskatoon Police Service who was summonsed to appear before the Supreme Court of Canada in this matter.
4. I am 74 years of age. I am married and my wife and I have nine adult children. I am retired and living on my pension income which supports my wife and myself.

4. I am 74 years of age. I am married and my wife and I have nine adult children. I am retired and living on my pension income which supports my wife and myself.

5. I have been advised by the Saskatoon Police Service that I can expect to be called as a witness at the Commission of Inquiry into the wrongful conviction of David Milgaard.

6. I have contacted Mr. Aaron A. Fox, Q.C., Barrister and Solicitor of the firm of McDougall Gauley and have asked him to act as my counsel at the Inquiry. Mr. Fox advised me that he has been a member of the Bar in the Province of Saskatchewan since 1978. A copy of his Curriculum Vitae is attached hereto and marked as Exhibit "A" to this my Affidavit. He advised me that his present hourly rate is \$275.00 per hour.

7. Mr. Fox advised me that from time to time he would like to have junior counsel assist him at the Inquiry. He advises that there will likely be times when it will be more economical for junior counsel to attend at the Inquiry rather than Mr. Fox. He has indicated that has spoken with Mr. Christopher Boychuck of his firm who is prepared to assist in this matter. Mr. Boychuk's presently hourly rate is \$200.00 per hour.

8. Because the focus of the Inquiry will be a review of any and all aspects of the conduct of the investigation into the death of Gail Miller and the subsequent criminal proceedings resulting in the wrongful conviction of David Edgar Milgaard on the charge of the murder of Gail Miller I believe my role in the investigation of Gail Miller's death will be a significant aspect of the Inquiry.


9. I have been advised by Mr. Fox that the Inquiry may be as long as three months. I do not know the extent or role of my participation at the Inquiry at this

time but I do know that I do not have the financial resources to retain the services of Mr. Fox at this Inquiry.

10. I have not asked for this Inquiry and it would be a significant financial burden on myself and my wife if I was not provided funding for legal counsel at the Inquiry. The alternative would be that I would be unrepresented by counsel at the Inquiry which would be equally unsatisfactory.

11. It is proposed that Mr. Fox will forward statements of account from time to time to the Inquiry for services rendered by him in representing me as counsel at the Inquiry which accounts will contain such particulars and will be subject to such review as the Commissioner may direct.

12. I make this Affidavit in support of my application that I be granted standing and funding at the Commission of Inquiry into the wrongful conviction of David Milgaard.

SWORN BEFORE ME at the City)
of Saskatoon, in the Province of)
Saskatchewan, this 17 day of)
March, A.D. 2004.)
)

Eddie A. Karsh

A COMMISSIONER FOR OATHS in
and for the Province of Saskatchewan.
~~My Commission expires:~~
or Being a Solicitor.

TO: The Commission of Inquiry
1020 Spadina Crescent East
Saskatoon, SK S7K 3A1

AND TO: Mr. Douglas C. Hodson
Counsel for the Inquiry

This Affidavit was delivered by:

McDougall Gauley
Barristers and Solicitors
700 - 2010 - 11th Avenue
Regina, SK S4P 0J3
Address for Service is: Same as above
Lawyer in Charge of File: Aaron A. Fox, Q.C.
Telephone: (306) 565-5147
Fax No.: (306) 359-0785

AARON A. FOX, Q.C.

- July 19, 1952 Born and raised at Holdfast, Saskatchewan
Married (Elaine) and have four children
- June 1970 Graduated, St. Peters College, Muenster, Saskatchewan
- May 1974 B.A. (English) University of Saskatchewan,
Saskatoon, Saskatchewan
- 1975 Recipient of Martin Scholarship – College of Law
- 1976-1977 Legal Writing Assistant Instructor, U of S, College of Law
- May 1977 LL.B., University of Saskatchewan
- 1977-1978 Articled to M.C. Shumiatcher, O.C., Q.C.
- July 1978 Called to the Bar of the Province of Saskatchewan
- 1978-1982 Associate – Shumiatcher & Associates
- 1983-1989 Partner – Shumiatcher-Fox
- 1990 - Partner – McDougall, Ready, now McDougall Gauley
- 2000 - Executive Committee Member – McDougall Gauley
- 1983-1990 Director of Regina Bar Association
- 1988 President of Regina Bar Association
- 1986-1988 Chairman, Criminal Justice Section, Southern Section
for the Province of Saskatchewan, Canadian Bar Association
- 1988-1989 Member of CBA, Saskatchewan Branch, National Council
- 1988-1990 Saskatchewan delegate – Uniform Law Conference of Canada,
Criminal Section
- 1989-1992 Membership Chairman, Canadian Bar Association,
Saskatchewan Branch
- 1990-1992 Vice-Chairman, National Membership Committee,
Canadian Bar Association
- 1985 - Member, International Commission of Jurists
- 1989-2001 Member of the Saskatchewan Trial Lawyers Association –
Secretary and Regina District Governor
- 1992-1998 Hearing Officer Pursuant to The Police Act, 1990, Saskatchewan

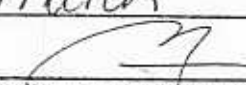
- 1996-1998
1996-1998 Member of the City of Regina Crime Prevention Commission
Co-Chairman of the Auto Theft Subcommittee
- 1998 - Member "Diocesan Response Group:
Allegations of Sexual Abuse"
Anglican Church of Canada, (Saskatchewan)
- 1994-2000 Member of the CBA, Saskatchewan Branch, Gender Equity
Committee (Chairperson – 1998-2000)
- CBA Representative on "Employment Equity Committee" for the
Department of Justice
- 1996 - Member of Saskatchewan Criminal Defence Lawyers Association
and Chairman of the Legal Aid Tariff Subcommittee
- 1997 Appointed Queen's Counsel for the Province of Saskatchewan
- 1997-1999 Member of Provincial Court Bar Judicial Council for the Province
of Saskatchewan
- 1997 - Member of Provincial Court Liaison Committee for Regina and
defence counsel representative of the Provincial Court Practice
Committee
- 2000 Listed in "Lexpert" under Litigation: Personal Injury, Professional
Litigation and Criminal Law
- 2000 AV rating (Very High to Preeminent Legal Ability) Martindale-
Hubbell
- 2000 Bar Admission Course Lecturer, "The Case for the Defence"
- General Lecturer and Panelist in the areas of criminal law and civil
litigation at Canadian Bar Association Mid-Winter Meetings,
Continuing Legal Education seminars and Saskatchewan Trial
Lawyers Association conferences; preparation and presentation of
the following:
Motion Sickness: How to Avoid It
"Nuts & Bolts of Impaired Driving Charges"
Cross-Examination Demonstration
Jury Trials – Selecting a Jury
Moderator: Civil Sexual Assault Cases
Cross-Examination – Civil Trials
Disclosure
Criminal Appeals – Practice and Procedure
Section 10(b) of the Canadian Charter of Rights and Freedoms
Criminal Law Update Seminar – "Cross-Examination on previous
inconsistent Statements"
STLA 1997 Criminal Law Practice Update Seminar
"The Midnight Call": Advocate (1995)

"Victim Services or Agents of the Crown": Advocate (1997)
"Why Don't We Lock Everyone Up?": Advocate (1998)
"Do You Need Legal Help Reciting the Alphabet at 2:00 a.m.?:
Sections 9 and 10(b) of the Charter"
Faculty Member: Trial Advocacy Workshop – 1998
"Reasonable and Probable Grounds": Advocate Vol. 1, Issue 1
(1999)
"DNA Warrants" – SKLESI New Challenges Conference (1999)
"Dealing with the Media": Advocate Vol. 1, Issue 3 (1999)
"The Informational and Implementation Obligations of Section
10(b): Right to Counsel" – CBA, Sask., Mid-Winter Meeting,
January, 2000
"Criminal Code Drinking and Driving Amendments", Advocate
Vol. 2, Issue 2 (2002)
"Section 657.3 Expert Witness Reports", - 2002,
Canadian Bar Association, Saskatchewan Branch:
Criminal Law Essentials Seminar, May, 2002
Panelist, 2002, STLA Annual Conference:
"The Big, The Bad and The Ugly; Mega Files, Mega Trials
and Reviled Clients"
Presentation to Chiropractor Association of Saskatchewan
"Understanding the Legal Process" (2003)
Panel Member; (2003) Radio Television News Directors
Association Prairie Convention: "Order in the Court"
"What is an Impartial Juror?" CBA – Saskatchewan Branch
Bar Notes, Vol. XVIII, No. 2 (2003)

- 2000 2000 Sask. Legal Education Society Volunteer Award (Southern
Saskatchewan)
- 2001 - Fellow, American College of Trial Lawyers
- 2002 - STLA Mentor - Criminal and Civil Litigation
- 1979 - Associate Member, Royal Canadian Legion
- 1995 Assistant Vice-President, Legal, for 1995 Grey Cup Inc.
- 1998 - Intermediate Level Coach – Canadian Hockey Association
- 2002 - CHA "Speak Out" – Abuse & Harrassment Clinic
- 2000 - 2002 Zone 5 Chairman, Hockey Regina Inc.
- 2002 - Member of Board of Directors, 2004 Air Canada Midget AAA
Regional Hockey Championship, Regina, Saskatchewan

- 2003 Chairman of the Bid Committee for SHA Bid for 2005 World Under 17 Hockey Challenge
- Counsel for Saskatchewan Hockey Association and local counsel for the Canadian Hockey Association
- 2001 - Member of Board Directors of Saskatchewan Hockey Association Legacy Fund
- 1994-2000 McDougall Ready contact for partnership with Wetmore Elementary School/Ken Jenkins School
- 1999-2000 Director, Prairie Fire Rugby Team
- 2000 - 2003 Member of the Board of Governors, Regina Symphony Orchestra

This is Exhibit "A" referred to in the affidavit of Eddie Karst sworn to herein before me this 12 day of March, 20 04


A COMMISSIONER FOR OATHS in and for the Province of Saskatchewan,
Being a Solicitor
or My commission expires _____