

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20130912**

**Docket: A-26-13**

**Citation: 2013 FCA 212**

**CORAM: NOËL J.A.  
TRUDEL J.A.  
MAINVILLE J.A.**

**BETWEEN:**

**DR. V.I. FABRIKANT**

**Appellant**

**and**

**HER MAJESTY THE QUEEN  
IN RIGHT OF CANADA,  
CORRECTIONAL SERVICE CANADA**

**Respondents**

Heard at Montréal, Quebec, on September 12, 2013.

Judgment delivered from the Bench at Montréal, Quebec, on September 12, 2013.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**NOËL J.A.**

Federal Court of Appeal



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**REASONS FOR JUDGMENT OF THE COURT**

(Delivered from the Bench at Montréal, Quebec, on September 12, 2013).

**NOËL J.A.**

The motion to allow new evidence to establish that Correctional Service Canada is in a position to provide the Appellant with a second parka is allowed, and the appeal from the interlocutory order of the Federal Court is dismissed with costs, no error having been demonstrated in the Federal Court judge's exercise of discretion.

"Marc Noël"

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-26-13

**(APPEAL FROM AN ORDER OF JUSTICE BÉDARD DATED DECEMBER 19, 2012,  
DOCKET NO. T-1764-12)**

**STYLE OF CAUSE:** DR. V.I. FABRIKANT v. HER  
MAJESTY THE QUEEN IN RIGHT  
OF CANADA, CORRECTIONAL  
SERVICE CANADA

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** SEPTEMBER 12, 2013

**REASONS FOR JUDGMENT OF THE COURT BY:** NOËL J.A.  
TRUDEL J.A.  
MAINVILLE J.A.

**DELIVERED FROM THE BENCH BY:**  
NOËL J.A.

**APPEARANCES:**

Dr. Valery Fabrikant FOR THE APPELLANT  
(ON HIS OWN BEHALF)

Pascale-Catherine Guay FOR THE RESPONDENTS

**SOLICITORS OF RECORD:**

William F. Pentney FOR THE RESPONDENTS  
Deputy Attorney General of Canada