



SUPERIOR COURT OF QUÉBEC

May 6, 2021

Directive of the Superior Court, Montreal division on applications for *habeas corpus* in correctional matters

The Court of Appeal of Quebec in *Snooks c. Procureur général du Canada*¹ stated that certain applications for *habeas corpus* in correctional matters must be characterized as a civil remedy and are therefore subject to the provisions of the *Code of Civil Procedure*.

However, issues related to “prison law and life in the penal institution remain closely connected with the administration of criminal justice”.² Therefore, to ensure the sound management of its rolls and summons, the Court has determined that every application for *habeas corpus* in correctional matters should be filed with the criminal court office, regardless of its nature.

These applications will be assigned jurisdictional number “36” and will be heard by a judge of the Criminal Division. Because the proceeding is civil, however, the provisions of the *Code of Civil Procedure* apply, in particular articles 399 to 403 C.C.P.

The parties and their attorneys are responsible for complying with the provisions applicable to their proceeding, including those relating to appeals, where appropriate. Where required in a civil application for *habeas corpus*, the criminal court office will issue a notice of judgment under article 360 C.C.P. so that the parties can comply with articles 360 and 361 C.C.P.

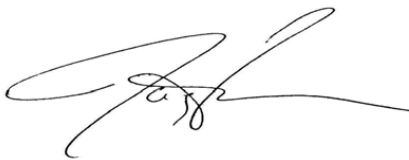
¹ *Snooks c. Procureur général du Canada*, [2020 QCCA 586](#), leave to appeal to SCC, 39224.

² *May v. Ferndale Institution*, [2005 SCC 82](#) at para. 68.

The following directives clarify the applicable provisions:

1. Every application for *habeas corpus* in correctional matters must be supported by an affidavit attesting to the truth of the facts alleged and setting out the conclusions sought;
2. As *habeas corpus* is a priority proceeding, the parties are encouraged to present their proof by affidavit as provided in article 399 C.C.P.;
3. Every application must be notified to the parties and be accompanied by a notice of presentation of at least one (1) clear juridical day;
4. In accordance with article 26 C.C.P., hearings should be remote whenever possible, using any technological means available.

This Directive takes effect on the date of its publication.

A handwritten signature in black ink, appearing to be 'J. Fournier', with a long horizontal flourish extending to the right.

Jacques R. Fournier
Chief Justice