

ONTARIO JUDICIAL COUNCIL

CITATION: *Re RSJ Currie*, 2025 OJC 2

DATE: 20250422

IN THE MATTER OF A HEARING UNDER SECTION 51.6 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C. 43, as amended

Concerning a Complaint about the Conduct of Regional Senior Justice Paul Currie

Before:

Justice Paul Rouleau, Chair
Court of Appeal for Ontario

Justice Christine Pirraglia,
Ontario Court of Justice

Ena Chadha,
Lawyer Member

Jovica Palashevski,
Community Member

Hearing Panel of the Ontario Judicial Council

REASONS FOR RULING ON MOTION TO ADJOURN PROCEEDINGS

Counsel:

Gerald Chan and Alexandra Heine, Presenting Counsel

Brennan Smart, Counsel for Regional Senior Justice Paul Currie

Daniel Goldbloom, Counsel for the Primary Witness

Heard: April 9, 2025

I. OVERVIEW

[1] This is a ruling on a motion by RSJ Currie to adjourn a hearing of the Ontario Judicial Council (“Council”) under s. 51.6 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (“CJA”), concerning a complaint about his conduct. The hearing on the merits of the complaint was scheduled to commence on April 14, 2025, with the following additional days reserved for continuance as necessary: April 15, 24, 25 and June 4, 5, 6 and 27, 2025.

[2] The basis for the adjournment request is that RSJ Currie is recovering from cancer treatment he underwent in summer 2024 and he submits that he is not able to effectively participate in the hearing given his current physical and cognitive limitations. Presenting counsel did not oppose the adjournment request given the state of RSJ Currie’s health.

[3] The motion proceeded via Zoom videoconference on April 9, 2024.¹ At the hearing, we granted the motion to adjourn the April 14, 15, 24, 25, June 4, 5, 6 hearing dates but we reserved the June 27, 2025 hearing date, with reasons to follow. These are those reasons.

¹ The community member, Jovica Palashevski, participated via telephone connection.

II. BACKGROUND TO THE MOTION

[4] The complaint against RSJ Currie was filed on April 12, 2023 by former Chief Justice Lise Maisonneuve of the Ontario Court of Justice. The complaint letter informed the Council that RSJ Paul Currie had been arrested on April 11, 2023 for assault causing bodily harm, contrary to s. 267(b) of the *Criminal Code*, and for simple assault, contrary to s. 266 of the *Code*.

[5] Pursuant to s. 49(16) of the *CJA*, this hearing panel was assigned to hear evidence and determine whether there is evidence to support a finding of judicial misconduct arising from the complaint, and if so, to determine the appropriate disposition of the complaint under s. 51.6(11) of the *CJA*.

[6] Pursuant to s. 51.4(10) of the *CJA*, RSJ Currie was suspended with pay from his judicial duties as the Regional Senior Judge of the Central West Region on April 14, 2023. The panel has no information as to whether, in light of his medical condition, RSJ Currie is currently receiving disability benefits or continued salary. The suspension remains in effect until the complaint is finally disposed of, or until RSJ Currie fully retires from judicial office, in which case the hearing panel loses jurisdiction over the complaint.

[7] On February 24, 2025, presenting counsel filed a Notice of Hearing setting out the allegations about RSJ Currie's conduct.² The allegations in the Notice of

² The panel granted a publication ban over the name of the primary witness, as well as information that would identify the primary witness, and directed that the primary witness should be referred to as "A.A." in the public version of the record of proceedings in this matter.

Hearing include that RSJ Currie engaged in non-consensual sexual intercourse with A.A. and physically assaulted A.A. causing A.A. bodily injury, and that on a separate occasion, Justice Currie pushed A.A. causing bodily injury. Also at the appearance on February 24, 2025, eight days in April and June were scheduled for the hearing on the merits of the complaint.

[8] In addition, at the appearance on February 24, 2025, the hearing panel was informed of RSJ Currie's health issues for the first time. Counsel for RSJ Currie, Brennan Smart, advised that he had received instructions that day that he could advise the panel that RSJ Currie has an aggressive form of throat cancer. Mr. Smart advised that RSJ Currie "is, on my urging, seeing his oncologist on Wednesday and getting an opinion as to whether he can participate, given his health problems, in the proceedings in April and following." Mr. Smart confirmed that he would get an opinion from the oncologist and share it as soon as it was received. Mr. Smart further advised that he might apply to adjourn the proceedings if the oncologist were of the view that RSJ Currie was not well enough to participate in a meaningful way.

[9] Based on this information, the hearing panel requested Mr. Smart to raise with the oncologist the issue of possible accommodations to facilitate RSJ Currie's participation at the hearing, including "the array of digital and electronic methods of participation." The hearing panel asked that the oncologist be informed that "we are flexible – and will do what needs to be done to ensure a level of participation."

[10] No further updates regarding RSJ Currie's health were provided until April 2, when counsel for RSJ Currie sent correspondence to the Registrar advising as follows:

As indicated at the Motion Hearing on February 24, 2025, Regional Senior Justice Currie is suffering from cancer, and it has had a debilitating effect on his health. Since the hearing [on February 24, 2025], his health has further deteriorated so we must bring an application to adjourn the April hearing dates as a result.

[11] Also on April 2, counsel for RSJ Currie submitted a medical report of Dr. Jillian Tsai of the Department of Radiation Oncology at The Princess Margaret Cancer Centre. Dr. Tsai reported on her assessment of RSJ Currie, which was conducted on March 5, 2025. This report is discussed in the next section of these reasons.

III. ADJOURNMENT REQUEST

[12] On April 4, counsel for RSJ Currie served and filed a notice of motion, written submissions, and an affidavit in support of the adjournment motion. The notice of motion requests an order adjourning all scheduled hearing dates in both April and June 2025.

[13] In addition, in written submissions, counsel for RSJ Currie offered the following undertaking:

We will undertake to request and obtain an updated assessment from Dr. Tsai following the June 5 appointment and immediately forward same to the OJC, Presenting Counsel, and counsel for the Primary Witness. The duration of the adjournment can be determined given Dr. Tsai's update.

Counsel for RSJ Currie will undertake to keep the dates previously offered in November 2025 open to schedule the hearing.

[14] The medical evidence filed in support of the motion consists of the above-mentioned report prepared Dr. Tsai. In her report, dated April 2, 2025, Dr. Tsai states:³

I am writing this letter at the request of my patient, Paul Currie, whom I saw on March 5, 2025, regarding his ongoing health concerns.

Paul Currie is currently in recovery following treatment for throat and tongue cancer, which involved chemotherapy (discontinued after four rounds) and radiation therapy completed in June and July of 2024.⁴ His recovery has been prolonged due to complications, including persistent infection and ulceration in his throat, significantly impacting his ability to eat and swallow efficiently. As a result, he has experienced substantial weight and muscle loss, contributing to ongoing physical weakness and fatigue.

Over the past four months, Paul Currie has reported severe fatigue, requiring 12-15 hours of sleep per day, with limited stamina for daily activities. He experiences exhaustion after brief outings and struggles to maintain concentration for more than two to three hours at a time. Additionally, he remains under the care of a cardiologist, Dr. Fernando Rivera Theurel, following episodes of irregular heartbeat that occurred during his cancer treatment. His next follow-up appointment with Dr. Theurel is scheduled for June 5, 2025.

³ At the hearing of the motion, counsel for RSJ Currie confirmed that no privacy interest is being asserted in any of the medical information before the panel. We refer to the details of this evidence in this decision, to the extent necessary, in order to explain why we adjourned the April and June 4-6 hearing dates.

⁴ At the hearing, counsel for RSJ Currie clarified that, although RSJ Currie's chemotherapy and radiation treatment ended in July 2024, his condition significantly deteriorated in or around December 2024 and has not improved in the intervening months.

Given his current medical condition, including persistent fatigue, cognitive limitations, and physical deconditioning, I believe Paul Currie would face significant challenges in meaningfully participating in his upcoming Ontario Judicial Council hearing as scheduled in April and June 2025. I recommend that his medical status be reviewed within 90 days to reassess his ability to engage in prolonged and cognitively demanding proceedings.

[15] Counsel also filed an affidavit from RSJ Currie describing his medical condition. This affidavit states in part:

4. I am constantly physically exhausted. I am not well enough to stay awake for more than a couple hours at a time and then need to sleep for several hours after three to four hours of being awake. I am only able to walk about 200 metres before I need to sit and rest. I also cannot focus or concentrate for any length of time.

5. I cannot speak well due to damage to my tongue and mouth. People have difficulty understanding me in person, and more so by phone or Zoom. This has presented difficulties preparing for the hearing as my lawyer cannot understand me over the phone.

6. When the [April] hearing dates were confirmed on January 17, 2025, I was hopeful that I would be feeling well enough after three months to be able to participate in the hearing. However, my health has continued to decline.

...

8. As a result of complications related to my treatment, it is very difficult for me to eat. I have lost significant weight and muscle mass. ...

9. I will not be capable of meaningfully participating in the hearing preparation process as well as the hearing, either in person or via Zoom. I can only stay awake for two to three hours at a time and I cannot be understood with my voice limitations. I could not maintain sufficient focus to participate in

or meaningfully instruct counsel through a Zoom hearing of that duration. It is very important to me that I am present during the hearing and any accommodation which would limit my full participation, including participating via video or watching the proceedings on a videorecording would significantly impact my ability to do so.

[16] In written submissions, counsel for RSJ Currie took the position that the medical report of Dr. Tsai, coupled with RSJ Currie's affidavit, "make it clear that [RSJ Currie's] persistent fatigue, cognitive limitation, and physical deconditioning cannot be remedied or alleviated" by the accommodations proposed by the hearing panel.

[17] In written submissions filed on April 7, 2025, presenting counsel confirmed that, given the state of RSJ Currie's health and Mr. Smart's undertaking to provide an updated assessment from Dr. Tsai, they are not opposing the motion to adjourn the April and June hearing dates. Presenting counsel proposed that the parties explore available hearing dates as early as August 2025 and hold such available dates pending receipt of the updated assessment.

[18] At the hearing of the motion, the chair of the hearing panel advised that, based on the position of presenting counsel, the panel was inclined to grant the adjournment request, with the exception of the June 27 hearing date. The panel proposed to revisit the status of the June 27 date after receiving the updated assessment from Dr. Tsai following RSJ Currie's appointment with her on June 5, 2025. The parties and counsel for the primary witness raised no objections to this proposal.

[19] In oral submissions, Mr. Smart expanded upon the terms of the undertaking by agreeing to do the following:

- provide the hearing panel, presenting counsel, and counsel for the primary witness with a letter of request from Mr. Smart to RSJ Currie's oncologist, Dr. Tsai, specifying the details of the medical assessment she is being asked to provide in a report to the hearing panel;
- include in the letter to Dr. Tsai that the report is a matter of urgency;
- include in the letter to Dr. Tsai that she may invoice Mr. Smart for the time she requires to prepare the report;
- provide the hearing panel with proof that RSJ Currie has consented to divulge the report.

[20] In addition to imposing the terms of the undertaking proposed by Mr. Smart in written and oral submissions, we direct that Mr. Smart request that Dr. Tsai provide the following information in the updated report:

- Details on RSJ Currie's symptoms that may limit or impair his ability to participate in the hearing.
- The expected duration of RSJ Currie's symptoms affecting his ability to participate in the hearing, if known.
- Dr. Tsai's opinion on what accommodations, if any, could assist RSJ Currie in meaningfully participating in the hearing, including any combination of the following, or other means suggested by Dr. Tsai:
 - participation by video with regular breaks to facilitate the opportunity to consult with counsel (including via private chat or in a remote breakout room);
 - hybrid participation with the opportunity to watch the proceedings at the hearing venue from a private

break-out room, with regular breaks to facilitate the opportunity to consult with counsel;

- flexible scheduling, including late start times, shortened hearing hours and regular and frequent breaks; and
 - any assistive devices RSJ Currie may require during the hearing so that the use of these devices may be facilitated at the hearing.
- Recommendations, if any, on the location and set-up of the hearing venue.

[21] The updated medical report from Dr. Tsai should be provided to the Registrar by no later than June 10, 2025.

IV. HEARING DATES

[22] As directed by the hearing panel prior to the motion, the parties came prepared to address new hearing dates. Counsel for RSJ Currie advised he has no availability in the summer months due to his court commitments and holiday schedule. Counsel for the parties and the primary witness have mutual availability on only three non-consecutive dates in September and October. Counsel have mutual availability from November 4-7, 18-20 and 24-26, with the exception that the primary witness is not available November 4-7.

[23] Mr. Smart advised that his assessment of how much time was required for the hearing had changed. While previously, he anticipated that the hearing would take 10 days, he now expects that 6 days in total would be required for the hearing. Mr. Smart explained that he had previously considered calling evidence that would

“border on section 276, 278 [of the *Criminal Code*] types of evidence” but no longer intends to call that evidence.⁵

[24] We agree with presenting counsel’s position that, given the difficulties in finding mutually available dates and the potential for a further adjournment request, it would be prudent to reserve more than six hearing days.

[25] We directed counsel to confer to determine if they had mutual availability for any additional dates in November, including weekends. Counsel subsequently confirmed their availability for the weekend of November 22-23, 2025.

[26] Based on the availability of the parties, the following hearing dates are set, in addition to June 27: November 4, 5, 6, 7, 18, 19, 20, 22, 23, 24, 25, 26, 2025. After the update on RSJ Currie’s condition is received, the panel will review the appropriateness of retaining the November 4-7 hearing dates. If the primary witness continues to be unavailable on those dates and the parties remain confident of the six-day estimate for the hearing, the panel will consider vacating those dates.

[27] For these reasons, and on the terms set out herein, the hearing is adjourned to June 27, 2025.

Released: this 22nd day of April, 2025

⁵ See the panel’s interim rulings dated March 17, 2025.