



NDP candidate Taman appeals to overturn prosecutor election ban

Kathryn May, Ottawa Citizen, September 1st 2015

Ottawa-Vanier NDP candidate Emilie Taman appealed to the Federal Court Tuesday to overturn the Public Service Commission's refusal to let her run in the federal election.

In the day-long hearing, Taman's lawyer asked the Federal Court for a judicial review to set aside the PSC decision as "unreasonable" because it failed to balance her obligations to be a loyal and impartial public servant with her constitutional right to seek public office. It's unclear whether the judge will have a decision before the election Oct. 19.

Taman has been fired from her job as a federal prosecutor with the Public Prosecution Service of Canada (PPSC) for abandoning her job when she took an unauthorized leave to seek the NDP nomination.

Taman said the outcome will have little impact on her because she made the decision to defy the PSC's decision, but could help future prosecutors who may want to seek office.

The PSC has the exclusive authority to decide who can seek nominations and run in elections. Public servants who get approval can take leave without pay during the election period. If elected, they must leave the public service.

The Association of Justice Counsel, which represents Justice Canada lawyers, is backing Taman in her challenge because it fears the PSC's decision sets the stage for a "blanket prohibition" on federal prosecutors ever running for office.

A big concern is that the prosecution service's management recommended the PSC reject Taman's leave because her ties to a political party would undermine the office's independence and her perceived impartiality if she lost and returned to work.

"What I want now is to get some clarification and well-reasoned direction for future PSC decision-makers on how to deal with other prosecutors who could find themselves in my shoes."

Senior or regional Crown prosecutors can't run as federal candidates but prosecutors have the right to seek election in all provinces other than in New Brunswick. Taman said the provinces have found ways to mitigate any concerns about impartiality if they return to their jobs.

Taman's battle for public servants' political rights has become a cause célèbre. She has won the support of former NDP leader Ed Broadbent for her nomination along with that of other NDP MPs.

Her mother, former Supreme Court justice Louise Arbour, also endorsed her while acknowledging her support "could give rise to a reasonable apprehension of bias."

Taman joins another federal lawyer, Claude Provencher, general counsel and regional director in Quebec, who is also taking the PSC to court for refusing him leave to seek the Liberal nomination in the new Quebec riding of Vimy.

Provencher's arguments are similar to Taman's, but he's going a step further and challenging the constitutionality of the Public Service Employment Act. His case will be heard in Montreal on Sept. 8.