PAROLE

Judicial review of Parole Board of Canada, Appeal Division decision affirming Parole Board's (Board) refusal to grant applicant full parole — Applicant's case referred to Board for accelerated parole review (APR) day parole review — Board concluding applicant likely to commit offence involving violence before expiration of sentence if released — Board then denying applicant's application for day parole under regular regime — Appeal Division confirming Board's decision — Applicant subsequently applying for full parole under regular parole review regime — Submitting application should be considered using APR regime criteria — Board denying application, including submission regarding applicable parole review criteria — Appeal Division ruling, in light of former s. 126(6) of *Corrections and Conditional Release Act*, S.C. 1992, c. 20, that Board applied correct legal test in considering applicant's application for full parole using regular full parole review criteria, instead of APR criteria — Whether Board having authority to conduct review of applicant's application for full parole using criteria of regular parole review regime instead of repealed APR regime — Board, Appeal Division's interpretation that APR is spent once APR parole denied falling within range of possible, acceptable outcomes — Antinomical with Act, APR's policy objectives that higher risk offenders would continue to enjoy less stringent APR criteria for subsequent parole reviews — Nothing in former ss. 126, 126.1 of Act precluding that interpretation — Plain reading of these provisions, together with *Corrections and Conditional Release Regulations*, SOR/92-620, s. 159, showing that APR intended to be one-time process with particular criteria for release designed to apply at time of offender's first parole eligibility date — Applicant offering no rational justification for proposition that former s. 126 should be read as disentitling from further APR reviews only offenders whose APR parole has been revoked or terminated, not offenders whose release under APR regime has been refused in the first place — Offenders whose APR parole was revoked or terminated were offenders directed for release under APR in the first place, not likely to commit an offence involving violence before expiration of their sentence — Would be incongruous for confirmed first-time, non-violent offenders, who have already met the less stringent criteria of former s. 126(2), to be treated less favorably for further parole reviews than offenders such as applicant who have failed to meet that criteria — Such incongruity not intended by Parliament — Former s. 126(6) not specifying that further reviews under former s. 125(3) to be conducted using APR criteria — Parliament expressly excluding regular regime's criterion when it comes to deciding, under former ss. 126(2) or (4), whether APR eligible offender should be released on parole but not when it comes to subsequent reviews conducted pursuant to s. 126(6) once APR parole had been denied in the first place — Close, logical link between Act, s. 123(5), former s. 126(6) — Nothing in provisions at issue, Act generally, supporting idea of bifurcated process when further reviews contemplated by former s. 126(6) — Idea that APR eligible offenders found to be prone to commit crime involving violence would be given second chance to be assessed under less stringent APR criterion not contemplated by Parliament — Application dismissed.

YE V. CANADA (ATTORNEY GENERAL) (T-1456-16, 2017 FC 660, LeBlanc J., judgment dated July 7, 2017, 28 pp.)