

**DATE: 2007-11-05**

**INQUIRY INTO PEDIATRIC FORENSIC PATHOLOGY IN  
ONTARIO**

**RULING ON THE APPLICATION FOR STANDING BY MARCO TROTTA**

**COMMISSIONER GOUDGE:**

Through his counsel, Marco Trotta seeks standing and funding to enable him to appear at the hearings of the Commission for the limited purpose of protecting his right to a fair trial.

Mr. Trotta's appeal of his criminal conviction for the murder of his eight-month-old son is now on reserve before the Supreme Court of Canada. At his trial, Dr. Charles Smith gave pathology evidence about the cause of the child's death.

The death was one of the cases reviewed by the Chief Coroner's Review, which found that some of Dr. Smith's factual conclusions were not reasonably supported by the

materials available. As is clear from the Order in Council, that Review and the cases it dealt with, played an important role in the establishment of the Commission.

Mr. Trotta's counsel has advised that one of the possible outcomes of the present appeal may be a new criminal trial for his client. Mr. Trotta therefore wishes his counsel to attend as necessary at the hearings of the Commission, simply to protect his fair trial rights in the event that a new criminal trial is directed.

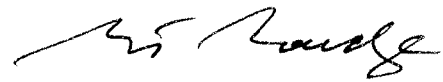
Since the Trotta case may be the subject of evidence at the Commission's hearings, at least to the extent of the pathology involved, this request is reasonable. Mr. Trotta's fair trial rights should be protected, as far as possible. This can be best effected by the presence of his counsel on those limited occasions when evidence is presented to the Commission that could be relevant to his criminal trial.

I therefore order that Mr. Trotta be given standing for this limited purpose, and as long as the possibility of a new criminal trial exists. I direct that his counsel work out with Commission Counsel the details of how this can be effected on a day to day basis. If differences arise, I will rule as necessary.

I also order that counsel for Mr. Trotta be funded for this limited purpose. Mr. Trotta has just recently been released after more than 8 years in custody and would be financially

unable to participate in this Commission without funding. On those days when Mr. Trotta's interest is engaged, either Mr. Lomer or a junior lawyer on his behalf may attend. While some preparation may be necessary, in my view, it will be very limited

**RELEASED: November 5, 2007**

A handwritten signature in black ink, appearing to read "S. Goudge".

Stephen Goudge  
Commissioner