

Federal Court of Appeal



Cour d'appel fédérale

Date: 20170919

Docket: A-264-16

Citation: 2017 FCA 192

**CORAM: NADON J.A.
STRATAS J.A.
WEBB J.A.**

BETWEEN:

ATTORNEY GENERAL OF CANADA

Appellant

and

BALRAJ SHOAN

Respondent

Heard at Toronto, Ontario, on September 19, 2017.

Judgment delivered from the Bench at Toronto, Ontario, on September 19, 2017.

REASONS FOR JUDGMENT OF THE COURT BY:

NADON J.A.

Federal Court of Appeal



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(Delivered from the Bench at Toronto, Ontario, on September 19, 2017)

NADON J.A.

[1] By its appeal, the appellant challenges the decisions of Zinn J. of the Federal Court (the Judge) dated June 23, 2016 and September 2, 2016 wherein he rescinded a confidentiality order made, on consent of the parties, by Strickland J. on August 15, 2015. More particularly, Strickland J. at paragraph 1 of her order indicated that

all references to names, titles and gender identifiers of individuals referenced in the Final Investigation Report, In the Matter of a Complaint Submitted on September 18, 2014, pursuant to the Treasury Board Policy on Harassment Prevention and Resolution, dated March 17, 2015...shall be treated as confidential and redacted from

the documents that were to be filed in the judicial review application.

[2] At paragraphs 147 to 150 of his September 2, 2016 decision, the Judge deals with the appellant's request for a confidentiality order pursuant to Rules 151 and 152 of the *Federal Courts Rules*, (SOR/98-106). At paragraph 149, he concludes that there is no basis justifying the order sought by the appellant adding that "I indicated at the hearing [on June 23, 2016] that the Confidentiality Order was rescinded, and the hearing proceeded on that basis".

[3] As a result of the Judge's decision of June 23, 2016 and his ultimate decision of September 2, 2016, the information which the Attorney General sought to keep confidential is no longer confidential as the Judge, in his reasons, clearly identifies the complainant, the alleged harasser and the other participants who appeared before the investigator. As the appellant did not at any time attempt to obtain a stay of the Judge's order on confidentiality, there is, in our respectful view, no longer a live issue before this Court.

[4] Consequently, we are all agreed that the appeal should be dismissed on the ground of mootness with costs in favour of the respondent.

"M. Nadon"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKETS: A-264-16

**(APPEAL FROM AN ORDER OF THE HONOURABLE MR. JUSTICE ZINN DATED
JUNE 23, 2016, IN DOCKET NO. T-668-15)**

DOCKETS: A-264-16

STYLE OF CAUSE: ATTORNEY GENERAL OF
CANADA v. BALRAJ SHOAN

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 19, 2017

REASONS FOR JUDGMENT OF THE COURT BY: NADON J.A.

DATED: SEPTEMBER 19, 2017

APPEARANCES:

Roy Lee FOR THE APPELLANT
Jacob Pollice

Craig J. Stehra FOR THE RESPONDENT

SOLICITORS OF RECORD:

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