

Federal Court of Appeal



Cour d'appel fédérale

Date: 20180214

Docket: A-22-17

Citation: 2018 FCA 37

**CORAM: STRATAS J.A.
BOIVIN J.A.
RENNIE J.A.**

BETWEEN:

GREGORY MCMASTER

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Ottawa, Ontario, on February 14, 2018.
Judgment delivered from the Bench at Ottawa, Ontario, on February 14, 2018.

REASONS FOR JUDGMENT OF THE COURT BY:

BOIVIN J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on February 14, 2018).

BOIVIN J.A.

[1] Mr. McMaster (the Appellant) appeals from a judgment of McDonald J. of the Federal Court (the Federal Court Judge) rendered on January 6, 2017 (2017 FC 25). The Federal Court Judge dismissed the Appellant's application for judicial review of a decision rendered on December 11, 2015 by the Assistant Commissioner for the Correctional Service of Canada in respect of a grievance (the Decision). The grievance raised eight (8) issues and was filed by the

Appellant on August 19, 2015. The Decision upheld portions of the Appellant's grievance, denied others and ordered corrective action, in respect of two of the allegations.

[2] Unsatisfied with the Decision, the Appellant sought judicial review before the Federal Court. The Federal Court Judge found that the Decision was reasonable and that there had been no breach of procedural fairness.

[3] When seized of an appeal from an application for judicial review disposed of by the Federal Court, this Court must step into the shoes of the Federal Court and concentrate on the administrative decision in question (*Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36, [2013] 2 S.C.R. 559 [*Agraira*] at para. 46). This Court must therefore focus on the Decision and determine whether, in reviewing it, the Federal Court identified the appropriate standard of review and applied it correctly (*Agraira* at para. 47). In this case, the Federal Court Judge identified the proper standards of review and applied them correctly.

[4] In this appeal, the Appellant moves to raise a new argument related to administrative segregation arising out of a recent decision rendered by the Supreme Court of British Columbia (*British Columbia Civil Liberties Association v. Canada (Attorney General)*, 2018 BCSC 62). As the Supreme Court of British Columbia's decision and the arguments now raised by the Appellant in relation to that decision were not before the administrative decision-maker – *i.e.* the Assistant Commissioner – when he made his decision, it would be inappropriate for this Court in

the context of a judicial review proceeding to allow the new argument. The motion is therefore dismissed.

[5] In his Notice of Application and his Notice of Appeal, the Appellant seeks the quashing of the Decision only on one basis: the Appellant's wrongful removal as chair of a committee. But the Appellant has argued his application in appeal on a broader basis. He disagrees with the various decisions and actions taken by the Correctional Service of Canada and, more particularly, challenges the Decision on the basis that it does not go far enough in terms of remedies or in terms of denouncing the actions of the Correctional Service Canada.

[6] However, before this Court, the Appellant essentially re-argues the same points he argued in his original grievance and before the Federal Court Judge. In fact, the Appellant is asking our Court to re-weigh the evidence. It is not our role. We have not been persuaded that the Decision is unreasonable or that there was procedural unfairness and that the intervention of this Court is warranted.

[7] The appeal will be dismissed with costs.

“Richard Boivin”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-22-17

STYLE OF CAUSE: GREGORY MCMASTER v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: FEBRUARY 14, 2018

REASONS FOR JUDGMENT OF THE COURT BY: STRATAS J.A.
BOIVIN J.A.
RENNIE J.A.

DELIVERED FROM THE BENCH BY: BOIVIN J.A.

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