

Date: 20090608

Docket: A-190-07

Citation: 2009 FCA 196

**CORAM: NADON J.A.
BLAIS J.A.
PELLETIER J.A.**

BETWEEN:

**AURÉLIEN MAINVILLE
and
CLAUDE PAULIN**

Appellants

and

ATTORNEY GENERAL OF CANADA

Respondent

Hearing held at Fredericton, New Brunswick, on June 8, 2009.

Judgment delivered from the Bench at Fredericton, New Brunswick, on June 8, 2009.

REASONS FOR JUDGMENT OF THE COURT BY:

NADON J.A.

Cour d'appel
fédérale



CANADA

Federal Court
of Appeal

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Fredericton, New Brunswick, on June 8, 2009)

NADON J.A.

[1] This is an appeal from a decision of Justice Blanchard of the Federal Court, dated March 6, 2007, dismissing the appellants' application for judicial review of a decision of the Minister of Fisheries and Oceans (Minister) dated March 30, 2006.

[2] We are all of the opinion that there is no basis for intervening.

[3] We are satisfied that Justice Blanchard made no error in law or in the findings of fact he made in support of his assessment of the case.

[4] In reality, the appellants are asking us, as they asked Justice Blanchard, to amend the Minister's March 30, 2006, fishing plan. In other words, the appellants are asking us to exercise, but in a different way, the discretion exercised by the Minister in formulating his fishing plan and issuing fishing licences.

[5] The fishing plan is under the sole responsibility of the Minister and an integral part of his discretion; therefore, we cannot intervene unless the Minister has devised his plan and issued the licences on the basis of irrelevant considerations, or acted arbitrarily or in bad faith. In our opinion, there is no evidence in the record to support such a proposal.

[6] Lastly, so that there is no doubt on this subject, we are satisfied, in light of all the circumstances (see *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817), that the Minister did not breach the principles of natural justice in developing his fishing plan and issuing fishing licenses to those to whom he had awarded a portion of the TAC (total allowable catch) of snow crab in areas 12, 18, 25 and 26.

[7] For these reasons, the appeal will be dismissed with costs.

“M. Nadon”

J.A.

Certified true translation
Tu-Quynh Trinh

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-190-07

**(APPEAL OF AN ORDER OF JUSTICE BLANCHARD OF THE FEDERAL COURT
DATED MARCH 6, 2007, DOCKET T-742-06.)**

STYLE OF CAUSE: AURÉLIEN MAINVILLE ET AL.
v. ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: Fredericton, New Brunswick

DATE OF HEARING: June 8, 2009

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

DELIVERED FROM THE BENCH BY: NADON J.A.

APPEARANCES:

Jean-Marc Gauvin FOR THE APPELLANTS

Paul Marquis FOR THE RESPONDENT

SOLICITORS OF RECORD:

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John H. Sims, Q.C. FOR THE RESPONDENT
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