

Federal Court
of Appeal



CANADA

Cour d'appel
fédérale

Date: 20110309

Docket: A-260-10

Citation: 2011 FCA 92

**CORAM: NOËL J.A.
PELLETIER J.A.
TRUDEL J.A.**

BETWEEN:

**THE PRIME MINISTER OF CANADA,
THE MINISTER OF FOREIGN AFFAIRS, and
THE MINISTER OF JUSTICE**

Appellants

and

OMAR AHMED KHADR

Respondent

AND BETWEEN:

**THE PRIME MINISTER OF CANADA and
THE MINISTER OF FOREIGN AFFAIRS**

Appellants

and

OMAR AHMED KHADR

Respondent

Heard at Edmonton, Alberta, on March 9, 2011.

Judgment delivered from the Bench at Edmonton, Alberta, on March 9, 2011.

REASONS FOR JUDGMENT OF THE COURT BY:

NOËL J.A.

Federal Court
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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Edmonton, Alberta, on March 9, 2011)

NOËL J.A.

[1] As a result of the prison sentence imposed on the respondent following the guilty plea which he registered before the U.S. Military Commission, he is no longer detained by reason of the breach of his *Charter* rights which forms the basis of the judgment under appeal (see *Canada (Prime Minister) v. Khadr*, 2010 SCC 3 [*Khadr II*] at paragraph 48). It follows that, except for the award of costs, the judgement rendered by Zinn J. is no longer operative, and the appeal is moot.

[2] The appellants are not asking us to hear the appeal for the sole purpose of reviewing the award of costs, and even if they did, we do not believe that our discretion should be exercised to decide what are now academic propositions of law for this limited purpose.

[3] The appeal will be dismissed for mootness, the parties assuming their respective costs.

“Marc Noël”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-260-10

(APPEAL FROM A JUDGMENT OF THE HONOURABLE MR JUSTICE RUSSEL W. ZINN DATED JULY 5, 2010, DOCKET NOS. T-230-10 AND T-231-10)

STYLE OF CAUSE: THE PRIME MINISTER OF CANADA ET
AL v. OMAR AHMED KHADR

AND BETWEEN:

STYLE OF CAUSE: THE PRIME MINISTER OF CANADA ET
AL v. OMAR AHMED KHADR

PLACE OF HEARING: Edmonton, Alberta

DATE OF HEARING: March 9, 2011

REASONS FOR JUDGMENT OF THE COURT BY: (NOËL, PELLETIER & TRUDEL
JJ.A.)

DELIVERED FROM THE BENCH BY: NOËL J.A.

APPEARANCES:

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Nathan J. Whitling

FOR THE RESPONDENT

Dennis Edney

SOLICITORS OF RECORD:

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Edmonton, Alberta