

Federal Court of Appeal



Cour d'appel fédérale

Date: 20130314

Docket: A-561-12

Citation: 2013 FCA 82

**CORAM: PELLETTIER J.A.
TRUDEL J.A.
MAINVILLE J.A.**

BETWEEN:

GUILLAUME BOUTIN

Applicant

and

AIR CANADA

Respondent

Motion in writing disposed of without the appearance of the parties.

Judgment delivered at Ottawa, Ontario, on March 14, 2013.

REASONS FOR JUDGMENT BY:

MAINVILLE J.A.

CONCURRED IN BY:

**PELLETIER J.A.
TRUDEL J.A.**

Federal Court of Appeal



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REASONS FOR JUDGMENT

MAINVILLE J.A.

[1] This judgment concerns a motion by the respondent, Air Canada, to dismiss the application for judicial review filed by the applicant.

[2] By decision No. 444-C-A-2012 dated November 20, 2012, the Canadian Transportation Agency (the Agency) dismissed the complaint filed by the applicant regarding a permanent travel ban issued against him by the respondent.

[3] On December 20, 2012, the applicant filed an application for judicial review of that decision under subsection 28(1) of the *Federal Courts Act*, R.S.C. 1985, c. F-7, mainly raising jurisdictional errors and errors of law on the Agency's part.

[4] Subsection 41(1) of the *Canada Transportation Act*, S.C. 1996, c. 10, provides that an appeal lies from the Agency to the Federal Court of Appeal on a question of law or a question of jurisdiction on leave to appeal being obtained from that Court on application made within one month after the date of the decision, order, rule or regulation being appealed from, or within any further time that a judge of that Court under special circumstances allows.

[5] Subsection 28(2) of the *Federal Courts Act* provides that section 18.5 thereof applies, with any modifications that the circumstances require, in respect of an application for judicial review made to the Federal Court of Appeal under subsection 28(1). Section 18.5 provides as follows:

18.5 Despite sections 18 and 18.1, if an Act of Parliament expressly provides for an appeal to the Federal Court, the Federal Court of Appeal, the Supreme Court of Canada, the Court Martial Appeal Court, the Tax Court of Canada, the Governor in Council or the Treasury Board from a decision or an order of a federal board, commission or other tribunal made by or in the course of proceedings before that board, commission or tribunal, that decision or order is not, to the extent that it may be so appealed, subject to review

18.5 Par dérogation aux articles 18 et 18.1, lorsqu'une loi fédérale prévoit expressément qu'il peut être interjeté appel, devant la Cour fédérale, la Cour d'appel fédérale, la Cour suprême du Canada, la Cour d'appel de la cour martiale, la Cour canadienne de l'impôt, le gouverneur en conseil ou le Conseil du Trésor, d'une décision ou d'une ordonnance d'un office fédéral, rendue à tout stade des procédures, cette décision ou cette ordonnance ne peut, dans la mesure où elle est susceptible d'un tel appel, faire l'objet de contrôle, de restriction, de

or to be restrained, prohibited,
removed, set aside or otherwise dealt
with, except in accordance with that
Act.

prohibition, d'évocation, d'annulation
ni d'aucune autre intervention, sauf en
conformité avec cette loi.

[6] In the circumstances of this case, this Court therefore does not have jurisdiction to hear the applicant's application for judicial review: *Montréal (City) v. Canadian Pacific Railway*, 2003 FCA 105.

[7] To challenge the impugned decision of the Agency, the applicant had to comply with subsection 41(1) of the *Canada Transportation Act* and obtain from this Court leave to appeal the decision.

[8] Accordingly, this Court does not have jurisdiction over the application for judicial review filed by the applicant, and in accordance with paragraph 52(a) of the *Federal Courts Act*, the proceedings in this application will therefore be quashed.

“Robert M. Mainville”

J.A.

“I agree.

J.D. Denis Pelletier J.A.”

“I agree.

Johanne Trudel J.A.”

Certified true translation
Erich Klein

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-561-12

STYLE OF CAUSE: GUILLAUME BOUTIN v.
AIR CANADA

MOTION IN WRITING DISPOSED OF WITHOUT THE APPEARANCE OF THE PARTIES

REASONS FOR JUDGMENT BY: MAINVILLE J.A.
CONCURRED IN BY: PELLETIER J.A.
TRUDEL J.A.

DATED: March 14, 2013

WRITTEN REPRESENTATIONS BY:

Jean El Masri

FOR THE APPLICANT

Louise-Hélène Sénécal

FOR THE RESPONDENT

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