

Federal Court of Appeal



Cour d'appel fédérale

Date: 20210128

Docket: A-416-19

Citation: 2021 FCA 16

**CORAM: STRATAS J.A.
DE MONTIGNY J.A.
RIVOALEN J.A.**

BETWEEN:

JUDITH ANGELLA CHIN

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard by online video conference hosted by the registry on January 28, 2021.
Judgment delivered from the Bench by online video conference on January 28, 2021.

REASONS FOR JUDGMENT OF THE COURT BY:

STRATAS J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench by online video conference on January 28, 2021).

STRATAS J.A.

[1] The Federal Court declined to stay a removal order issued against the appellant: order dated October 29, 2019 (*per* Ahmed J.). It did not certify a question for the consideration of this Court. We are all agreed that this Court has no jurisdiction to hear this appeal by virtue of para. 72(2)(e) and subsection 74(d) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.

[2] The appellant alleges bias on the part of the Federal Court and submits that this enables her to appeal to this Court. However, there is no evidence of bias whatsoever and so this Court has no jurisdiction to hear this appeal.

[3] During argument of the appeal, counsel for the appellant offered his unsworn impressions of the hearing before the Federal Court and the bias of the Federal Court. These are inadmissible.

[4] The Federal Court was largely silent in the hearing. From time to time, it assisted the appellant such as by explaining the legal test for a stay of removal. It encouraged the appellant to take her time. It helped her find page references. It was professional and courteous. It displayed an open mind throughout.

[5] In oral argument, the appellant submits that the Federal Court “exuded hostility”. We see no evidence of this. In fact, the Federal Court’s conduct described in the last paragraph suggests this is not correct. In any event, if this sort of procedural unfairness were so, it was incumbent on the appellant to register an objection with the Federal Court then and there: *Irving Shipbuilding Inc. v. Canada (Attorney General)*, 2009 FCA 116, [2010] 2 F.C.R. 488.

[6] The appellant complains that the Federal Court’s reasons were brief and this is a sign of bias. We reject this. Short reasons are often adequate and often that is all that judges need to write in order to explain their determination of a case on its merits.

[7] The Crown submits that the appeal should be dismissed because the appellant does not have “clean hands”—she has not obeyed the removal order against her. We cannot consider this submission as it goes to the merits of the appeal. As we do not have jurisdiction to hear the appeal, we cannot decide any questions concerning its merits.

[8] Costs are awarded in immigration matters only where there are special circumstances. Here, the appellant made groundless allegations of bias without any evidence. This Court has often warned that this sort of conduct “calls into question not simply the personal integrity of the judge, but the integrity of the entire administration of justice”: *Es-Sayyid v. Canada (Public Safety and Emergency Preparedness)*, 2012 FCA 59, [2013] 4 F.C.R. 3 at paras. 38-40, citing *R. v. S.(R.D.)*, [1997] 3 S.C.R. 484, 151 D.L.R. (4th) 193 at para. 113; *Abi-Mansour v. Canada (Aboriginal Affairs)*, 2014 FCA 272 at paras. 10-15. The allegation of bias against the Federal Court is scandalous and entirely without merit.

[9] Therefore, we will dismiss the appeal with costs.

“David Stratas”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-416-19

**APPEAL FROM AN ORDER OF THE HONOURABLE MR. JUSTICE AHMED DATED
OCTOBER 29, 2019, DOCKET NO. IMM-5969-19**

STYLE OF CAUSE: JUDITH ANGELLA CHIN v. HER
MAJESTY THE QUEEN

PLACE OF HEARING: DELIVERED FROM THE
BENCH BY ONLINE VIDEO
CONFERENCE

DATE OF HEARING: JANUARY 28, 2021

**REASONS FOR JUDGMENT OF THE COURT
BY:** STRATAS J.A.
DE MONTIGNY J.A.
RIVOALEN J.A.

DELIVERED FROM THE BENCH BY: STRATAS J.A.

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