

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20221206**

**Docket: A-27-22**

**Citation: 2022 FCA 213**

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

**BETWEEN:**

**KAREN LYNNE TURNER-LIENAU**

**Appellant**

**and**

**THE ATTORNEY GENERAL OF CANADA**

**Respondent**

Heard at Halifax, Nova Scotia, on December 6, 2022.  
Judgment delivered from the Bench at Halifax, Nova Scotia, on December 6, 2022.

**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 at Halifax, Nova Scotia, on December 6, 2022).**

**STRATAS J.A.**

[1] The appellant appeals from the judgment dated December 30, 2021 of the Federal Court (*per* Zinn J.): 2021 FC 1483. The Federal Court dismissed the appellant's application for judicial review of a decision of the Canadian Judicial Council.

[2] During oral submissions, counsel for the appellant spent considerable time acquainting us with the lead up to the court proceeding in Nova Scotia and the court proceeding itself that gave rise to the appellant's complaint to the Canadian Judicial Council. We wish to note that the only matter before us is whether the decision of the Canadian Judicial Council should remain in place, not the merits of the court proceeding in Nova Scotia.

[3] As well, contrary to the appellant's submission, our task in this appeal is not to make findings on the issues raised in the appellant's complaint to the Canadian Judicial Council or to assess whether the judge in that court proceeding committed judicial misconduct; that was the task of the Canadian Judicial Council. Our task is "to step into the shoes" of the Federal Court and review the administrative decision of the Canadian Judicial Council on administrative law principles, nothing more: *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36, [2013] 2 S.C.R. 559 at paras. 45-47; *Northern Regional Health Authority v. Horrocks*, 2021 SCC 42, 462 D.L.R. (4th) 585 at paras. 10-12.

[4] We see no basis upon which to interfere with the judgment of the Federal Court. The Federal Court properly chose reasonableness as the standard of review of the decision of the Canadian Judicial Council: *Girouard v. Canada (Attorney General)*, 2020 FCA 129, [2020] 4 F.C.R. 557. None of the recognized exceptions to reasonableness review apply, nor is there any basis for recognizing Canadian Judicial Council investigations and determinations regarding judicial conduct, even where the alleged judicial conduct is said to be fraud, as an exception to reasonableness review: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653.

[5] The appellant submits that *Pfizer Canada Inc. et al. v. Canada (Minister of Health)*, 2011 FCA 215 supports the view that the presence of fraud requires an appeal court to engage in a full, correctness review of the matter. We disagree. *Pfizer* concerns an allegation of fraud underlying the making of a first-instance court's order. It has no application here.

[6] The appellant also submits that this is a "general question of law of central importance to the legal system" and so correctness is the standard of review. We disagree for the reasons given (at paras. 25-30) by the Federal Court.

[7] The appellant also submits that the standard of review is correctness because this is a jurisdictional issue. We disagree. It used to be that certain "jurisdictional...questions of law" were reviewed for correctness: *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190 at para. 50. The later case of *Vavilov* (at paras. 65-68) has abolished that ground for correctness review.

[8] We agree with the Federal Court that the decision of the Canadian Judicial Council was reasonable. The Canadian Judicial Council found that the appellant's complaint fell within paragraph 5(b) of the Review Procedures, applied the prescribed criteria to the complaint, and found that the complaint did not warrant further consideration. It found that the complaint concerned judicial decision-making, for which the recourse is an appeal from the impugned judge's decision, not a complaint to the Canadian Judicial Council about the judge's conduct. This was a factually suffused finding of mixed fact and law with which we cannot interfere.

[9] Like the Federal Court, and substantially for the reasons it gave, we see in this record an acceptable and defensible basis for the Canadian Judicial Council's findings and conclusions on this record.

[10] Therefore, we will dismiss the appeal with costs fixed in the agreed amount of \$1,500.

“David Stratas”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-27-22

**APPEAL FROM A JUDGMENT OF THE HONOURABLE MR. JUSTICE ZINN DATED  
DECEMBER 30, 2021, DOCKET NO. T-505-21**

**STYLE OF CAUSE:** KAREN LYNNE TURNER-  
LIENAUX v. THE ATTORNEY  
GENERAL OF CANADA

**PLACE OF HEARING:** Halifax, Nova Scotia

**DATE OF HEARING:** DECEMBER 6, 2022

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

**DELIVERED FROM THE BENCH BY:** STRATAS J.A.

**APPEARANCES:**

Charles D. Lienaux FOR THE APPELLANT

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