Federal Court of Appeal  Cour d'appel fédérale

Date: 20141023

Docket: A-211-14
A-343-13
A-356-13

Citation: 2014 FCA 240

Present: STRATAS J.A.

BETWEEN:

R. MAXINE COLLINS

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on October 23, 2014.

REASONS FOR ORDER BY: STRATAS J.A.

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REASONS FOR ORDER

STRATAS J.A.

[1] The appellant moves for leave to file a memorandum of fact and law three times the maximum allowed under the *Federal Courts Rules*.

[2] Before the Court are three consolidated appeals from a decision of the Federal Court: 2014 FC 307. This Court consolidated the appeals because they raise common issues of fact and law. Presumptively, the 30 page maximum should apply.

[3] The Court's discretion to extend the 30 page limit is governed by the criteria set out in *Canada v. General Electric Capital Canada Inc.*, 2010 FCA 92. As the appellant has met none of those criteria, her motion will be dismissed.

[4] The appellant also moves for an order permitting her to file new evidence in the appeal.

[5] At the outset, this Court must decide whether to entertain this motion now, or reserve it for the consideration of the panel hearing the appeal.

[6] Whether the Court should provide an advance ruling on an evidentiary issue is a matter of discretion: *Association of Universities and Colleges of Canada v. Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paragraph 11. One matter to consider is whether the advance ruling would allow the hearing to proceed in a more timely and orderly fashion: *McConnell v. Canada (Canadian Human Rights Commission)*, 2004 FC 817, aff'd 2005 FCA 389. Another consideration is whether the issue of admissibility is relatively clear cut or obvious: *Canadian Tire Corp. Ltd. v. P.S. Partsource Inc.*, 2001 FCA 8. If reasonable minds might differ on the issue, the ruling should be left to the panel hearing the appeal.

[7] In this case, the motion is clear cut and obvious. Dealing with it now will allow the appeal hearing to proceed in a more timely and orderly way.

[8] The test for the admission of new evidence is stringent: *Palmer v. The Queen*, [1980] 1 S.C.R. 759; *Shire Canada Inc. v . Apotex Inc.*, 2011 FCA 10; *Brace v. Canada*, 2014 FCA 92.

[9] These and other authorities show that in order to be admitted, among other things, the evidence must be relevant in the sense that it bears upon a decisive or potentially decisive issue. Further, it must such that, if believed, it could reasonably have been expected to have affected the result below.

[10] On these two matters, the appellant has fallen short. She has not persuaded the Court that the evidence has any bearing whatsoever on the appeal. Indeed, if the evidence were available to the court below, I strongly doubt it would have viewed the evidence as relevant to the issues before it.

[11] As a result, the motion for an order permitting the appellant to file new evidence on appeal will be dismissed.

[12] It now falls to the appellant to file the appeal book for the consolidated appeals. This must be done in accordance with Rule 344 and the Order of the Court dated June 11, 2014 within 30 days of the date of the Order dismissing these motions.

"David Stratas"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-211-14
STYLE OF CAUSE:	R. MAXINE COLLINS v. HER MAJESTY THE QUEEN

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY:	STRATAS J.A.
DATED:	OCTOBER 23, 2014

WRITTEN REPRESENTATIONS BY:

R. Maxine Collins	ON HER OWN BEHALF
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