Federal Court  Cour fédérale

Date: 20150323

Docket: T-1787-14

Citation: 2015 FC 363

Ottawa, Ontario, March 23, 2015

PRESENT: The Honourable Mr. Justice LeBlanc

BETWEEN:

PAUL ABI-MANSOUR

Applicant

and

THE CHIEF EXECUTIVE OFFICER OF PASSPORT CANADA, NICOLAS MEZHER, KAHINA SID IDRIS

Respondents

ORDER AND REASONS

I. Introduction

[1] This is an appeal pursuant to section 51 of the *Federal Courts Rules*, SOR-98/106 (the Rules), of an order of Prothonotary Tabib, dated November 27, 2014 (the Order), allowing in part the Applicant's motion for an extension of time pursuant to Rule 8, and for relief under Rule 55.

II. Facts

[2] On August 20, 2014, the Applicant filed a Notice of Application seeking judicial review of a decision of the Public Service Staffing Tribunal dismissing his complaint in relation to a staffing process held at Passport Canada.

[3] As provided by Rule 307, the Applicant's affidavit was to be served and filed by September 19, 2014. By agreement, pursuant to Rule 7, this delay was extended to October 4, 2014.

[4] On October 14, 2014, the Applicant served and filed his affidavit along with a motion for an extension of time within which to serve and file it. In addition, he sought an extension of time to serve and file his record, as well as relief under Rule 55 allowing him to file a single copy of his record, instead of the three copies as required by Rule 309(1)(b)i), or, in the alternative, granting him a further five months to file his record in order to fund the cost for duplication.

[5] In the order of November 27, 2014, Prothonotary Tabib granted an extension of time for the Applicant to serve and file his affidavit, but dismissed the remainder of the motion. In addition, the order provided for the dismissal of the underlying judicial review application should the Applicant fail to serve and file his application record :

a. Within the deadlines contemplated by the Rules; or

b. Within the deadlines as they may have been extended by consent or by order of this Court upon further motion brought prior to the expiration of time and on grounds that have arisen after the date of her order.

[6] The Order awarded costs to the Respondent.

[7] The Applicant claims that Prothonotary Tabib erroneously applied the four-prong legal test for an extension of time; the *Hennelly* test (*Canada (Attorney General) v Hennelly*, 244 NR 399; 167 FTR 158), by requiring that all four criteria be met. He contends that, in any event, he meets all of them.

[8] As for the relief sought under Rule 55, the Applicant submits that the ability to pay is the decisive criteria and that Prothonotary Tabib applied too high of a threshold in this regard. The Applicant also claims that Prothonotary Tabib exceeded her jurisdiction by ordering the dismissal of his judicial review application in the event his application record was not served and filed in accordance with the terms of her Order. He further contends that, in awarding costs to the Respondent, she went against the jurisprudence of this Court which, according to him, is to the effect that no costs are ordered on successful motions for extension of time.

[9] Finally, the Applicant claims that Prothonotary Tabib's order is a form of retaliation resulting from tensions arising between them in file T-550-13 and that, as a result, he was not afforded a fair hearing.

III. Analysis

[10] As is well established, orders of Prothonotaries ought not to be disturbed unless the questions raised in the motion are vital to the final issue in the case or the impugned order is clearly wrong. In cases where the questions raised in the motion are vital to the final issue in the case, the impugned order is subject to a *de novo* review by this Court. In all other cases, the Court will only interfere with the order of a Prothonotary where the exercise of discretion by the Prothonotary was based upon a wrong principle or upon a misapprehension of the facts (*Merck & co. v Apotex Inc*, 2003 FCA 488, [2004] 2 FCR 459).

[11] In this case, the questions raised in the Applicant's motion are purely procedural in nature and none of them, are vital to the final issue in the case. Motions for extensions of time to file court documents in the course of a proceeding, or for a variation of the number of copies of these documents a party is required to file are not issues of such character, nor are orders awarding costs on a motion.

[12] The question then is whether Prothonotary Tabib's order is clearly wrong in that the exercise of her discretion regarding these questions was based upon a wrong principle or upon a misapprehension of the facts.

A. *The Extension of Time for the Filing of the Applicant's Record*

[13] The proper test to extend procedural timelines has been articulated by the Federal Court of Appeal in *Hennelly*, above. The test is whether the party seeking the extension has

demonstrated; (i) a continuing intention to pursue his or her application, (ii) that the said application has some merit, (iii) that no prejudice to the other party arises from the delay being sought, and (iv) that a reasonable explanation for the delay exists (*Hennelly*, at para 3). Regarding the fourth criteria, the *Hennelly* test provides that any determination as to whether a reasonable explanation exists will turn on the facts of each particular case (*Hennelly*, at para 4).

[14] It is clear from her reasons that Prothonotary Tabib applied the *Hennelly* test to the Applicant's request for an extension of time regarding the filing of his application record. Although she found that the Applicant had demonstrated an ongoing intention to proceed with his judicial review application, she concluded that he had failed to establish that his application had merit and that a reasonable explanation for the delay existed. She also concluded that while it had not been shown that the requested extension would cause prejudice to the Respondent, it was not in the interest of justice to grant an extension of time for no other reason than to suit a litigant's own sense of priorities, especially in the context of judicial review applications which, as a matter of principle, must proceed expeditiously.

[15] In order to determine whether Prothonotary Tabib was "clearly wrong" in concluding as she did, it is important to return to what formed the basis of the Applicant's request, filed October 14, 2014, for an extension of time to file his application record. The Applicant sought that the deadline for the filing of his application record be extended until the end of February, 2015, or until July 2015 should his request for relief made under Rule 55 be dismissed.

[16] In his memorandum of fact and law submitted in support of his motion before Prothonotary Tabib, the Applicant devoted two paragraphs to this specific request, which read as follows:

> 6. As mentioned in the affidavit, and because the record requires a great deal of time to complete the memorandum and because that time is not available to the applicant, requesting an extension of time to serve the applicant's record (till the end of February 2015) is more than reasonable in these circumstances.
>
> 9. Another alternative would be granting the extension of time till July 2015 to file the applicant's record, the date by which the applicant would be able to have the needed money to submit several copies of the record as required by the Rules.

[17] In the affidavit in support of that motion, the Applicant invoked both time and financial limitations to explain his inability to advance this case, and others he has before this Court, "at this point in time and in months to come". In his opinion the Rules "presume that litigants have enough time and money to carry out litigation", which is not his case.

[18] The Applicant described the "time challenges" he faces as follows:

a. In addition to his full time job, he has several obligations as an elected union officer, which consumes considerable time and effort (Applicant's affidavit, at para 7);

b. Because of personal and health related reasons, he is no longer capable of working on his court files, which require of him a great deal of time and effort, to write court pleadings when he comes home from work (Applicant's affidavit, at para 8-10);

c. In addition to this, he is also active in seeking employment and applying for jobs, including attending and preparing for interviews and tests, as well as studying to keep his skills up to date (Applicant's affidavit, at para 9);

d. He may not have time to even think of the present file before the end of January 2015 as he might travel overseas for a few weeks in December and January to deal with a family matter (Applicant's affidavit, at para 11); and

e. Taking vacation or leave without pay to advance the present case is not an option for the Applicant "given the Court's reluctance to reimburse any loss of salary resulting from such leave" , and also given his lack of interest in deriving any financial benefit from this proceeding as evidenced by the fact he is not seeking any damages or even any employment opportunity from the Respondent, his interest in pursuing the proceeding resting purely on moral grounds and on his desire to advance jurisprudence in the public interest (Applicant's affidavit, at para 12-13).

[19] With respect to his "financial challenges" , the Applicant claimed that with his current earnings and expenses, he could only put money aside to finance his court cases when he has three paydays in a month, as opposed to two; something which occurs only twice in any given year.

[20] In his reply to the Respondent's motion record, the Applicant contended that it was counterproductive on a motion for an extension of time to show that the underlying application has some merit, as required by the *Hennelly* test, because this requires a great deal of time and

resources and goes against the spirit of Rule 3. He claimed that, in any event, his judicial review application had some merit as the affidavit he had prepared in support of the application provided a "tenable basis to sustain the allegations made in the notice of application" (Applicant's reply, at para 7-8).

[21] The Applicant further replied, regarding the Respondent's response to his explanation for delay, that:

a. Relying on Justice Yvan Roy's order dated November 15, 2013 in docket T-550-13, where the Applicant's justification for delay, similar to one in the case at bar, was found to be unacceptable, carried no weight as this order was wrongly decided and under appeal;

b. This same justification was accepted by the Court on a number of other occasions in his other cases; and

c. The Rules, which are "just administrative requirements", could not constitute a bar to the constitutionally guaranteed right to seek judicial review of the decisions of administrative decision-makers, provided the challenge is brought within the time limits established by legislation.

[22] The Applicant concluded by stating that he had provided an explanation for the delay and that there was no need to probe his explanation further. In particular, he insisted that the way he organizes his life was his personal decision and that neither the Court nor the Respondent should question or interfere with:

> 21. What the applicant does, how he organizes his priorities, what priorities he sets in his life, how he spends his time and what he does on his weekends, what applications he files all these are very personal decisions that the Court or the respondent should not question not (sic) interfere with. To assume otherwise would mean that, under the guise of the timelines included in the Rules, the decision makers at 90 Sparks and the respondent's counsel will decide how applicant lives his life and dictate on him a certain way of life.
>
> 22. Nor the applicant should suffer any emotional of financial hardship, or health issues because of his application or other applications, especially in an application like this where the applicant cannot get any economic benefit. The present timelines indicated in the Rules just cannot be met by a person in the applicant's circumstances.'

[23] He "warned" that dismissing his motion for extension of time would be "wasting more of the applicant's, respondent and the court's time", as his judicial review application would nevertheless "survive such dismissal and go to status review".

[24] As indicated above, Prothonotary Tabib rejected the Applicant's request for extension of time to file his application record on the basis that he failed to establish two of the *Hennelly* requirements; (i) that his judicial review application has some merit, and (ii) that a reasonable explanation for the requested delay exists.

[25] As Prothonotary Tabib correctly points out in her reasons, the Applicant has not addressed the merits of its judicial review application in his motion record. When provided with the opportunity to file further submissions through his reply to the Respondent's motion record, he argued that it would be counterproductive to address this requirement. I agree with Prothonotary Tabib that this argument is ill-founded. As the law stands, someone seeking an

extension of time must establish that the underlying proceeding has some merit. This is a relevant jurisprudential consideration. Ignoring it is simply not a valid approach. With no more needing to be said on this issue I turn now to the Applicant's arguments regarding his affidavit in support of his judicial review application.

[26] The Applicant's contention that the affidavit he prepared in support of his judicial review application provides a tenable basis to sustain the meritorious nature of his judicial review application does not assist the Applicant. The affidavit was not filed with the Court therefore depriving Prothonotary Tabib of the possibility of determining whether the Applicant's assertion was accurate or not.

[27] Confronted by this peculiar situation, Prothonotary Tabib took it upon herself to examine the Notice of Application. She found that it lacked specificity and did not satisfy the Court that even the low threshold of merit had been met. Indeed, the Applicant's Notice of Application consists of a series of general assertions making undiscernible the merits, if any, of the Applicant's grounds for seeking judicial review of the impugned decision.

[28] In sum, to paraphrase Justice Roy's order in docket T-550-13 referred to above, which for all intents and purposes was confirmed on appeal on November 21, 2014 (*Paul Abi-Mansour v Department of Aboriginal Affairs*, 2014 FCA 272), the Court would at least have expected the Applicant to try to satisfy the requirement that his judicial review application has some merit. He clearly did not. As a result, I see no reason to interfere with Prothonotary Tabib's finding that this requirement of the *Hennelly* test has not been met in this case.

[29] The same is true regarding Prothonotary Tabib's conclusion that the Applicant's explanation, for the delay in filing his application record, is not acceptable. As she correctly points out, the Applicant's justification for obtaining such an extension of time is that he does not have the time or the resources to meet the deadlines prescribed by the Rules as he is facing competing demands of family, work, duties a union officer, job applications, studies and other on-going court cases he is involved in. Prothonotary Tabib found that this was not an appropriate justification for delay explaining that it boils down to the Applicant making his own choices and establishing his own order of priorities, regardless of the Rules.

[30] Again, I see no basis for intervention here. It seems to me that the Applicant's underlying rationale for his request for extension of time stems from a profound misconception of the Rules. They are not, as the Applicant suggests in his material, "administrative requirements", which implies that they are mere non-binding guidelines. The Rules have force of law. They are adopted pursuant to sections 45.1 and 46 of the *Federal Courts Act* (RSC, 1985, c F-7). These provisions provide for a detailed, comprehensive rules' adoption process lead by a committee, the Rules Committee, composed of the Chief Justices of the Federal Court of Appeal and of the Federal Court, three judges of the Federal Court of Appeal and five judges and one Prothonotary of the Federal Court, the Chief Administrator of the Courts Administrative Service and the Attorney General of Canada or a representative thereof. The Rules Committee is also composed of five members of the bar of any province designated by the Attorney General of Canada, after consultation with the Chief Justices of the Federal Courts. These members are to be representative of the different regions of Canada and have experience in the areas of jurisdiction of the Federal Courts.

[31] According to that process, where the Rules Committee proposes to amend, vary or revoke any Rule, it must publish its proposals in the Canada Gazette so that any interested person may comment on them. The Rules, or any proposal to amend, vary or revoke any Rule, are also subject to the approval of the Governor in Council and, once approved, they are laid before each House of Parliament.

[32] The Rules are therefore carefully crafted binding legal instruments that apply equally to all litigants coming before the Federal Courts, including self-represented litigants (*Kalevar v Liberal Party of Canada*, 2001 FCT 1261, [2001] FCJ No. 1721 (QL), at para 24; *Cotirta v Missinipi Airways*, 2012 FC 1262, at para 13, confirmed in 2013 FCA 280; *Canada (Minister of Human Resources Development) v Hogervorst*, 359 NR 156; 2007 FCA 41; *Paul Abi-Mansour v Department of Aboriginal Affairs*, Justice Roy, above, at p.3).

[33] Claiming that the Rules are made for litigants that have time and money to pursue litigation, or that they are mere guidelines, proceeds from an ill-informed and unfair characterization of the Rules and is certainly no valid explanation for delay.

[34] It is true that in certain circumstances, an extension of time will still be granted even if one of the criteria is not satisfied, but in this case, given the nature of the explanation for delay provided by the Applicant, I see no reason to interfere with Prothonotary Tabib's decision in this regard.

[35] In sum, I am in full agreement with Prothonotary Tabib's statement that granting extensions of time for no other reason than to suit a litigant's own sense of priorities, which is clearly the case of the Applicant as evidenced by his own written submissions, is not in the interests of justice. I would therefore dismiss the Applicant's appeal on this point.

B. ***The Rule 55 Request***

[36] The Applicant requests to be dispensed of the obligation to file three copies on his application record and allowed to file a single copy or, in the alternative, be granted a further extension of time (i.e. until July 2015) to file his record in order to garner the necessary funds to pay for duplication. Prothonotary Tabib dismissed this request on the ground that the Applicant had not shown that he was impecunious or would be unable to pursue a meritorious claim without that accommodation.

[37] The Applicant claims that with his current earnings and expenses, he can only put money aside to finance his court cases when he has three paydays in a month, instead of two; something that occurs only twice a year. The evidence before Prothonotary Tabib was that the Applicant's had a net monthly salary of approximately $2,800.

[38] I have not been persuaded that Prothonotary Tabib misapprehended the facts or applied a wrong principle in deciding as she did. She noted that the Applicant's Rule 55 request also boils down to his own choices and priorities when it comes to the allocation of his resources and I cannot say that she is "clearly wrong" on that point.

[39] I would add that the Applicant, of his own admission, lacks any interest in deriving any financial benefit from the underlying judicial review application and any employment opportunity. His sole interest in pursuing these proceedings rests on "purely on moral grounds" and on his desire to advance the jurisprudence in the public interest. If that is indeed the case, then there is nothing to prevent the Applicant from seeking a financial contribution from those on behalf of whom he seeks to advance the jurisprudence.

C. ***The Order Providing for the Dismissal of the Underlying Judicial Review Application***

[40] Prothonotary Tabib ruled that since the relief sought by the Applicant under Rules 8 and 55 had been denied, it followed that if the Applicant failed to serve and file his application record within the deadlines contemplated by the Rules (as may be extended by consent or by order of this Court upon further motion brought prior to the expiration of the delay and on grounds that have arisen after the date of the order), the Applicant would be in default of filing his application record, making the continuation of the underlying judicial review application impossible. Relying on Rule 168, which provides that the Court may dismiss a proceeding where, following an order of the Court it is not possible to continue the proceeding and in order to "dispel any misunderstanding and avoid a waste of the parties and the Court's time", Prothonotary Tabib ordered that should the Applicant be in default of filing his application record as per the terms of her order, the underlying application would be dismissed.

[41] The Applicant claims that Prothonotary Tabib had no jurisdiction to make that order. I disagree. According to Rule 50, a Prothonotary may "hear, and make any necessary order relating to, any motion under these Rules" other than those expressly excluded by that Rule.

Rule 168 is not part of the exclusions. Furthermore, "Court" is defined in section 2 of the Rules as meaning, *inter alia*, "the Federal Court, including a prothonotary acting within the jurisdiction conferred under these Rules". Therefore, there is no basis to the Applicant's jurisdictional argument.

[42] As the Respondent points out, the "dismissal" component of Prothonotary Tabib's order was within her jurisdiction as a necessary corollary to her denial of the Applicant's request for an extension of time. Indeed, it was a necessary corollary as a measure to both advance the underlying judicial review application, which, as a matter of principle must proceed expeditiously, and prevent an abuse of the Court's process resulting from the Applicant's approach to the Rules in general as well as from his approach to status review as a means of getting, indirectly, what was specifically refused to him.

[43] As the Respondent also correctly points out, the Order was not made to pre-empt the final decision to be made on the underlying judicial review application. The Applicant was still allowed to pursue his proceedings and to seek, although under stricter conditions, further delays. In this regard, Prothonotary Tabib's order, as a whole, had some measure of flexibility.

[44] It became clear however, at the hearing of the present appeal on February 4, 2015, that these options were not acceptable to the Applicant. He maintained that his proceedings would only advance if he could proceed under the terms set out in his motion. Given the Applicant's "my way or no way" approach to these proceedings, clearly present in his submissions, I believe that the dismissal component of Prothonotary Tabib's order was appropriate.

[45] Even if I were to consider the matter *de novo*, I would come to the same conclusion. What is at stake here is the integrity of the Rules and that of the Court's process. Having failed to file his application record in accordance with Prothonotary Tabib's order, and resorting to status review - being an abuse of process in the circumstances of this case - it can reasonably be said that it is not possible to continue the proceedings as per Rule 168 and that the Applicant's underlying judicial review application is therefore open to dismissal.

[46] What might, on its face, appear to be a drastic measure has to be put in proper perspective. As I have already indicated, the Applicant has no personal interest in the outcome of the present proceedings which he pursues strictly on moral grounds solely for the advancement of the jurisprudence in the public interest. The civil justice system discharges state functions and constitutes a public service (*Marcotte v Longueil (City)*, [2009] 3 SCR 65, at para 43). However, its resources, like any other parts of the public service, are limited and need to be rationed among competing claimants (*Borowski Canada (Attorney General)*, [1989] 1 SCR 342,at para 34). Abuse of process is antinomic to this principle. Even more so where, as here, no personal interests are being sought and would, as a result, be affected by the dismissal of a proceeding.

D. *The Retaliation Argument*

[47] The Applicant claims that tensions arose with Prothonotary Tabib in file T-550-13 and that the Order is a form of reprisal against him. In other words, he claims that she was biased and even urges the Court to presume bad faith on the part of Prothonotary Tabib.

[48] Those are very serious allegations which the Applicant has failed to establish to any appreciable degree. As the Respondent points out, the Applicant has been cautioned not to make unfounded allegations against members of the Court. In its decision dated November 13, 2014 affirming the order of Justice Roy referred to above, the Federal Court of Appeal went as far as to warn the Applicant that unsubstantiated allegations of bias "expose him to the dismissal of his proceedings as an abuse of process, either at the request of the opposing party or on the Court's own motion", and directed him to "govern himself accordingly" (*Abi-Mansour v Department of Aboriginal Affairs*, 2014 FCA 272, at para 15).

[49] The Court of Appeal in that case explained, in the following terms, why unsupported allegations of improper judicial conduct constituted an abuse of process:

> [12] Allegations of judicial bias cannot be allowed to go unchallenged as they attack one of the pillars of the judicial system, namely the principle that judges are impartial as between the parties who appear before them. The failure to challenge and denounce such allegations may be seen in certain circles as an implicit admission of their truth. This in turn encourages others to make them until they become common currency among those who have a limited perspective on the judicial system. The result is a loss of confidence in the judicial system in some quarters, an issue which must be taken seriously in a society committed to the rule of law.
>
> [13] In *Coombs v. Canada (Attorney General)*, 2014 FCA 222 at paragraph 14, this Court characterized repeated allegations of bias as attacks on the "integrity of the entire administration of justice." In *McMeekin v. Minister of Human Resources and Skills Development*, 2011 FCA 165, at para. 32, Sharlow J.A. stated that unsupported allegations of improper conduct constituted an abuse of process. Such conduct comes within the ambit of the doctrine of abuse of process which, as the Supreme Court of Canada observed in *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 at paragraph 43 focuses on "the integrity of the adjudicative functions of courts."

> [14] I am therefore of the view that Mr. Abi-Mansour's repeated unsupported allegations of bias are an abuse of process. Persons who invoke the court's assistance in its capacity as an independent arbiter of disputes and who then repeatedly allege bias when the court's decisions do not meet their expectations are not using the judicial system in good faith. The Court is entitled to decline to lend its assistance to such litigants.

[50] Clearly, the message of the Federal Court of Appeal has not been heard by the Applicant. By making unsupported allegations of improper conduct against Prothonotary Tabib, he is again attacking the integrity of the adjudicative function of the courts. This, in and of itself, given the unequivocal caution given by the Court of Appeal, is sufficient to dismiss the Applicant's appeal as an abuse of process.

E. ***The Costs***

[51] The Applicant contends that in awarding costs to the Respondent, Prothonotary Tabib went against the jurisprudence of the Federal Courts which, according to him, is to the effect that no costs are ordered on successful motions for extension of time.

[52] Rule 400 is clear: the Court has "full discretionary power" over the amount and allocation of costs as well as the determination of by whom they are to be paid. This power includes the authority to award costs against a successful party (Rule 400(6)). On motions for extension of time, the rule applicable to the assessment of costs by assessment officers is that the costs shall be borne by the party seeking the extension unless the Court orders otherwise (Rule 410(2)).

[53] Here, even assuming that the Applicant can be characterized as the "successful party" on his Rules 8 and 55 motion, the Federal Court of Appeal's decision in *Abi-Mansour v Department of Aboriginal Affairs*, above, is, in my view, dispositive of this issue. In that case, the Court of Appeal held that as the party seeking the extension of time, the Applicant was *prima facie* within the scope of Rule 410(2) and that nothing in that Rule requires the Court to make no order as to costs if an applicant is successful:

> [16] Mr. Abi-Mansour's last ground of appeal is that the motions judge erred in ordering costs against him in spite of the fact that he was the successful party. The motions judge relied on Rule 410(2) which provides that, unless otherwise ordered, the costs of a motion for an extension of time shall be borne by the party seeking the extension. Mr. Abi-Mansour points to a number of cases where no such order was made. This does not assist Mr. Abi-Mansour as each case represents an exercise of judicial discretion based on the circumstances of the particular case. Mr. Abi-Mansour was the party seeking the extension of time and was therefore, *prima facie*, within the scope of Rule 410(2). The motions judge saw no reason to depart from the award of costs contemplated by the Rule. I have not been persuaded that he erred in principle in failing to do so.
>
> [17] Mr. Abi-Mansour argues that the effect of the combination of Rule 400 and Rule 410(2) is that a successful applicant for an extension of time, who would normally be awarded his costs, following the usual practice that costs follow the event, is deprived of his costs by Rule 410(2). The result is that the parties bear their own costs.
>
> [18] This is contrary to the plain meaning of Rule 410(2) which specifically provides that the costs of a motion for an extension of time "shall be borne by the party bringing the motion". The intention of the Rule is to see that respondents who are put to the trouble of responding to a motion for an extension of time because the applicant has missed a filing deadline are not subject to an order of costs if the applicant, whose own conduct made the motion necessary, is successful. *Prima facie*, the person who seeks the extension bears the burden of costs. Rule 410(2) allows the judge to make a different order as to costs, but it does not require him to make no order as to costs if the applicant is successful.

[54] As pointed out by the Court of Appeal, the fact that there are a number of cases where no orders as to costs were made against a successful applicant is of no assistance to the Applicant as each case has to be assessed on its own merits and circumstances. Here, the Applicant has failed to establish that Prothonotary Tabib's order as to costs was based upon a wrong principle or upon a misapprehension of the facts.

[55] The Respondent, having been successful on all issues in this appeal, is entitled to costs.

ORDER

THIS COURT ORDERS that:

1. The appeal is dismissed.

2. Cost on this motion are awarded in favour of the Respondent.

"René LeBlanc"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1787-14
STYLE OF CAUSE:	PAUL ABI-MANSOUR V THE CHIEF EXECUTIVE OFFICER OF PASSPORT CANADA, NICOLAS MEZHER, KAHINA SID IDRIS
PLACE OF HEARING:	OTTAWA, ONTARIO
DATE OF HEARING:	FEBRUARY 4, 2015
ORDER AND REASONS:	LEBLANC J.
DATED:	MARCH 23, 2015

APPEARANCES:

Paul Abi-Mansour	APPLICANT
Joshua Alcock	FOR THE RESPONDENTS

SOLICITORS OF RECORD:

William F. Pentney Deputy Attorney General of Canada Ottawa, Ontario	FOR THE RESPONDENTS