

Federal Court



Cour fédérale

Date: 20210519

Docket: T-73-20

Citation: 2021 FC 467

Ottawa, Ontario, May 19, 2021

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

RICHARD CORY STANCHFIELD

Applicant

and

**MINISTER OF EMPLOYMENT, WORKFORCE
DEVELOPMENT AND DISABILITY INCLUSION, FOR
HER MAJESTY THE QUEEN IN RIGHT OF CANADA,**

-AND-

**CANADA EMPLOYMENT INSURANCE
COMMISSION,**

-AND-

THE ATTORNEY GENERAL OF CANADA,

-AND-

**PIERRE LALIBERTÉ, COMMISSIONER
FOR WORKERS, CANADA
EMPLOYMENT INSURANCE
COMMISSION**

Respondents

JUDGMENT AND REASONS

I. Introduction

[1] This decision deals with the refusal of the Respondent Minister to delete the Applicant's Social Insurance Number [SIN] and other related information from the Social Insurance Register [Register]. The Applicant claims a right to have his SIN deregistered or rescinded and asks for an order of *mandamus* compelling the Respondents to deregister him.

[2] The critical provision relied on is s 28.1(1) of the *Department of Employment and Social Development Act*, SC 2005, c 34 [DESDA]:

Social Insurance Number	Numéro d'assurance sociale
Registration	Enregistrement
28.1 (1) Any person who is employed in insurable employment as defined in the <i>Employment Insurance Act</i> or who is a self-employed person in respect of whom Part VII.1 of that Act applies must be registered with the Commission.	28.1 (1) Toute personne exerçant un emploi assurable au sens de la <i>Loi sur l'assurance-emploi</i> et tout travailleur indépendant auquel s'applique la partie VII.1 de cette loi doivent être enregistrés auprès de la Commission.

[3] At the core of the Applicant's position is the contention that "who is employed" refers to a person's *current* state of affairs – being then-employed. Since the Applicant is neither employed nor intending to be employed, the Applicant argues that he does not fit the condition, he no longer is required to be registered and therefore no longer is required to have a SIN. As a result, he claims to be entitled to deregistration of his SIN and related information.

II. Background Facts

A. *Preliminary*

[4] Mr. Stanchfield is a self-represented litigant, experienced in some areas of litigation and who was able to make cogent arguments and to cite statutory and case authority with clarity and persuasion. He has had experience in at least two other cases in this Court unsuccessfully challenging the Minister of National Revenue.

[5] At the age of 15, in 1986, he applied for a SIN as he began his employment history. He has not, however, been employed in insurable employment or been self-employed since December 31, 2009.

[6] In May 2016, the Applicant began his quest to have his “SIN enfranchisement” (his wording) rescinded. On June 2, 2016, the Register Office, in response to his rescission request, advised the Applicant that a SIN is permanent and “cannot be disassociated from the individual to whom it is assigned”.

[7] What followed from February 2017 was increasing communications – e-mails, telephone calls – between the Applicant and officials in the Department with an escalating assertive tenor. All of these interactions were aspects of and consistent with the Applicant’s demand for rescission and the Department’s negative response.

[8] This series of interactions adds nothing to the issues in this case. Although the Applicant complains that officials were antagonistic to him, there is nothing to suggest that he was treated unfairly or that his demand for rescission was not considered seriously.

[9] The Applicant has suggested that in some manner, the SIN regime offends his religious beliefs but that issue has not been substantively raised nor has the Applicant alleged a *Charter* breach.

B. *SIN/Use*

[10] A SIN is a nine-digit number used to identify Canadian citizens, permanent residents or temporary residents in Canada who earn money through work, pay taxes, contribute to pension plans and/or use a variety of government services.

[11] The Register is a computer database which stores all SINs issued since 1964, and the name, date of birth (and death), place of birth and parents' names of the person to whom the specific SIN is assigned and the information is updated as required.

[12] Different government departments and agencies use SINs for program administration and benefits. The information is used to identify people and their information can only be accessed for legislated purposes.

[13] The Respondents identified some of the programs and benefits referred to which require a SIN:

- Canada Pension Plan;
- Old Age Security;
- Employment Insurance;
- Child tax benefits;
- Student aid;
- GST and HST;
- Social assistance benefits;
- Veterans' benefits and programs;
- Workers' compensation benefits; and
- Canada Education Savings Grants and RESP.

[14] Having a SIN does not legally require anyone to participate in government programs and benefits but practically speaking the absence of a SIN takes a person out of the stream of these programs and benefits.

[15] The central issue in this judicial review is: Does the DESDA allow for the deregistration of a person's SIN and whether, if so, should the Court order the Respondents to deregister the Applicant and delete his personal information from the Register?

III. Analysis

A. *Standard of Review*

[16] The Applicant asserts that the applicable standard of review is correctness while the Respondents argue for reasonableness. This is one of those circumstances where the issue is largely immaterial because there is only one reasonable conclusion available to the Court.

[17] In *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], having concluded that the presumption on statutory interpretation is reasonableness (para 115), the Court went on to address the situation of a single reasonable interpretation:

[124] Finally, even though the task of a court conducting a reasonableness review is not to perform a *de novo* analysis or to determine the “correct” interpretation of a disputed provision, it may sometimes become clear in the course of reviewing a decision that the interplay of text, context and purpose leaves room for a single reasonable interpretation of the statutory provision, or aspect of the statutory provision, that is at issue: ...

[18] In *Nova Tube Inc/Nova Steel Inc v Conares Metal Supply Ltd*, 2019 FCA 52, the Court of Appeal applied the reasonableness standard to a statutory interpretation even after concluding that there was only one reasonable interpretation of the provision.

[19] The present case raises an important issue of general application but it is not one of the “central importance” categories identified in *Vavilov* which attract the correctness standard. Those categories are scope of parliamentary privilege, scope of the state’s duty of religious

neutrality or requiring uniform and consistent answers because of the impact on the administration of justice.

[20] The legal issue does have impact on much of the Canadian public and is a dispute of wider public concern but that is not sufficient to bring the matter inside the *Vavilov* correctness regime.

[21] Importantly, in my view, the Respondents bring experience and objectivity to the consideration of the issue. As noted earlier, the use of a SIN covers a much broader context and multiple statutory regimes than the matter of the creation and rescission of a SIN. This is not a situation of a government office or department seeking to preserve their jurisdictional turf. The Respondents' perspective gives important context and speaks in favour of a reasonableness standard that leads to only one reasonable interpretation.

B. *Legislative Scheme*

[22] The key provision of DESDA for these purposes is s 28.1(1):

Social Insurance Number	Numéro d'assurance sociale
Registration	Enregistrement
28.1 (1) Any person who is employed in insurable employment as defined in the <i>Employment Insurance Act</i> or who is a self-employed person in respect of whom Part VII.1 of that Act applies must be registered with the Commission.	28.1 (1) Toute personne exerçant un emploi assurable au sens de la <i>Loi sur l'assurance-emploi</i> et tout travailleur indépendant auquel s'applique la partie VII.1 de cette loi doivent être enregistrés auprès de la Commission.

[23] Paragraphs 2 and 3 require the maintenance of the Register and the assignment of a SIN:

Register

(2) The Commission shall maintain a register containing the names of the persons referred to in subsection (1) and any other information that it determines is necessary to accurately identify them.

Social Insurance Number

(3) The Commission shall assign to each person registered with it a number that is suitable for use as a file number or account number or for data processing purposes, and that number is the person's Social Insurance Number for any purpose for which a Social Insurance Number is required.

Registre

(2) La Commission tient un registre contenant les noms des personnes visées au paragraphe (1) et les autres renseignements qui lui sont nécessaires pour les identifier avec précision.

Numéro d'assurance sociale

(3) La Commission attribue à chaque personne enregistrée un numéro utilisable comme numéro de dossier ou de compte ou pour le traitement des données. Ce numéro est le numéro d'assurance sociale de la personne à toute fin nécessitant un numéro d'assurance sociale.

[24] Section 28.2 outlines the contents of the Register:

Social Insurance Register

28.2 (1) The Commission may maintain a Social Insurance Register containing

(a) the names of persons registered in the registry referred to in section 28.1;

(b) the names of persons to whom a Social Insurance Number has been assigned under the *Canada Pension Plan*; and

Registre d'assurance sociale

28.2 (1) La Commission peut tenir un Registre d'assurance sociale contenant :

a) les noms des personnes enregistrées dans le registre visé à l'article 28.1;

b) les noms des personnes auxquelles un numéro d'assurance sociale a été attribué en application du *Régime de pensions du Canada*;

(c) the names of persons for whom an application has been made to the Commission for a Social Insurance Number.

c) les noms des personnes pour lesquelles une demande de numéro d'assurance sociale lui a été présentée.

Additional information

(2) The Social Insurance Register may, subject to any regulations that the Governor in Council may make in that regard, contain any other information in addition to the names and Social Insurance Numbers of persons that is necessary to accurately identify all persons who are registered.

Contenu

(2) Le Registre d'assurance sociale peut, sous réserve des règlements que le gouverneur en conseil peut prendre à cet égard, contenir, en plus des noms et numéros d'assurance sociale des personnes, les autres renseignements nécessaires à l'identification précise de toutes les personnes qui y sont enregistrées.

Issuing number and card

(3) When a Social Insurance Number is assigned to a person by the Commission in the course of maintaining the registers mentioned in this section and section 28.1, the Commission may issue a Social Insurance Number card to that person and that number is the person's Social Insurance Number for all purposes for which a Social Insurance Number is required.

Attribution du numéro et de la carte

(3) Lorsqu'elle attribue un numéro d'assurance sociale à une personne dans le cadre de la tenue des registres mentionnés au présent article et à l'article 28.1, la Commission peut délivrer une carte d'assurance sociale à cette personne et ce numéro est son numéro d'assurance sociale à toute fin nécessitant un numéro d'assurance sociale.

[25] Sections 28.2 (8), (9) and (10) provide for the issuance of a new SIN only if the original number had already been assigned, caused embarrassment or hardship, or other special circumstances. Importantly, a SIN may only be voided – not rescinded – under the very limited circumstances requiring a new SIN including instances of fraud.

New Social Insurance Number

(8) A person who has been assigned a Social Insurance Number may subsequently be assigned a new Social Insurance Number, in accordance with and subject to any regulations that the Commission may make, if

(a) the number first assigned has been assigned to another person;

(b) wrongful use by another person of the number first assigned has created a situation in which the person to whom the number was first assigned is or may be caused embarrassment or hardship; or

(c) there are other special or unusual circumstances that would make the issuance of a new number desirable.

Voiding

(9) When a new Social Insurance Number is assigned to a person, any number previously assigned to that person becomes void.

Nouveau numéro d'assurance sociale

(8) La personne à qui un numéro d'assurance sociale a déjà été attribué peut par la suite s'en faire attribuer un nouveau, en conformité avec les règlements pris par la Commission et sous réserve de ceux-ci, dans les cas suivants :

a) le numéro qui lui a été attribué initialement a été attribué à une autre personne;

b) l'utilisation frauduleuse par une autre personne de ce numéro lui crée ou risque de lui créer de l'embarras ou des difficultés;

c) des circonstances spéciales ou exceptionnelles le justifient.

Annulation

(9) Lorsqu'un nouveau numéro d'assurance sociale est attribué à une personne, tout numéro qui lui a été attribué auparavant est annulé.

More than one number assigned

(10) If a person has inadvertently been assigned more than one Social Insurance Number, the Commission shall determine which number is the official number and shall void the others.

Attribution de plus d'un numéro

(10) Lorsque, par inadvertance, il a été attribué à une personne plus d'un numéro d'assurance sociale, la Commission détermine lequel de ces numéros est le numéro officiel et annule tous les autres.

C. *Interpretation*

[26] DESDA gives the Minister broad power and objections (s 5) and confers operational requirements and powers on the Commission (s 24, 28.1, 28.2).

[27] Section 28.1 imposes an obligation on any person who is employed to register with the Commission. It is silent as to any requirement to continue to be employed.

[28] The legislative scheme is also silent on rescission of a SIN even when the number has been made void. In the face of a new SIN being issued, the old SIN is merely voided – not deleted or rescinded.

[29] Importantly, there is no statutory power given, either explicitly or by implication, authorizing the rescission of a SIN. Had Parliament intended to create a right of rescission or deregistration, it would have done so specifically as it did with the obligation to register and the requirement to void a number.

[30] The Applicant's interpretation is based on a pure grammatical reference to "is employed" in s 28.1(1) as indicating a continuing condition for registration. It purports to be an "ordinary meaning" interpretation. With respect, it is not.

[31] It ignores the reference to the time at which registration arises when one "is employed" initially. The Applicant's interpretation becomes unreasonable when one examines the legislation's scheme, context and purpose. It ignores the consequences that would arise of registration, deregistration and reregistration as one's employment history changes.

[32] The Court is to take into account s 12 of the *Interpretation Act*, RSC 1985, c I-21, and the modern interpretation principles outlined in *Rizzo & Rizzo Shoes Ltd (Re)*, [1998] 1 SCR 27.

[33] The Applicant's interpretation is inconsistent with a scheme where the obligation to register is created by statute but for which there is no corresponding statutory provision allowing for rescission or deregistration. It is also inconsistent with the context of the legislation that does not refer to rescission, merely to voidability, in the face of fraud or erroneous issuance.

[34] The Respondents' interpretation is more consistent with the purpose of maintaining a single government number for each person and of ensuring consistency and ease of administration among many different pieces of federal legislation from taxation, to benefits and entitlements. This broader context supports an interpretation that once a SIN is issued, it is not rescinded and no one has a right to have the SIN rescinded.

[35] Such an interpretation is also consistent with the objective of allowing individuals to participate in a wide array of benefits, programs and entitlements and fosters efficient monetary collection to pay for these benefits, programs and entitlements.

[36] There is no merit in the Applicant's argument that he is in a voluntary "enfranchisement" relationship with the Respondents. The relationship is statutory, compulsory in which consent plays no role in the obligation to register.

[37] Therefore, I have concluded that the Respondents had no power and the Applicant had no right to rescission of his SIN. The submissions regarding *mandamus* and similar relief are irrelevant.

IV. Conclusion

[38] The application for judicial review will be dismissed with costs of \$3,500.00.

JUDGMENT in T-73-20

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed with costs of \$3,500.00.

"Michael L. Phelan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-73-20

STYLE OF CAUSE: RICHARD CORY STANCHFIELD v MINISTER OF EMPLOYMENT, WORKFORCE DEVELOPMENT AND DISABILITY INCLUSION, FOR HER MAJESTY THE QUEEN IN RIGHT OF CANADA, AND CANADA EMPLOYMENT INSURANCE COMMISSION, AND THE ATTORNEY GENERAL OF CANADA AND PIERRE LALIBERTÉ, COMMISSIONER FOR WORKERS, CANADA EMPLOYMENT INSURANCE COMMISSION

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DATED: MAY 19, 2021

APPEARANCES:

Richard Stanchfield FOR THE APPLICANT
(ON HIS OWN BEHALF)

Adrienne Copithorne FOR THE RESPONDENTS

SOLICITORS OF RECORD:

Attorney General of Canada FOR THE RESPONDENTS
Vancouver, British Columbia