

Date: 20071103

Docket: T-1173-07

Citation: 2008 FC 1219

Toronto, Ontario, November 3, 2008

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

STANLEY LEONARD POMFRET

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Mr. Stanley Pomfret maintains that a Senior Deputy Commissioner (SDC) of the Correctional Service of Canada (CSC) wrongly denied his request to be reimbursed for a Playstation and accessories that were seized from his cell in 2006. The SDC concluded that these items were unauthorized and, therefore, properly seized.

[2] Mr. Pomfret asks me to overturn the SDC's decision. However, I have found that his application for judicial review is out of time and must, therefore, be dismissed.

[3] The threshold issue is whether Mr. Pomfret began these proceedings in a timely way.

I. Factual Background

[4] On March 10, 2006, Mr. Pomfret was transferred from Mountain Institution to Kent Institution. When his belongings were packed for him, some items, including a Playstation and some disks and games, were seized by CSC staff members. He signed a seizure notice on April 8, 2006, which told him that he had 30 days (from the date of seizure) to provide proof of ownership for these items. Mr. Pomfret tried, but failed, to obtain proof. He then made a claim for reimbursement in the amount of \$577.98.

[5] The Acting Warden at Kent denied his claim because of the absence of proof of ownership. Mr. Pomfret appealed that decision and, in November 2006, an Assistant Deputy Commissioner denied it. Mr. Pomfret took his claim to the next level and, on January 24, 2007, the SDC again denied it for absence of proof of ownership.

[6] On March 5, 2007, Mr. Pomfret requested a reconsideration of the SDC's decision. He received a letter from the Director of Offender Redress denying his request on May 29, 2007. Mr Pomfret filed his application for judicial review on June 25, 2007.

II. Did Mr. Pomfret file his application in time?

[7] An applicant must file an application for judicial review within 30 days of receiving the decision to be reviewed (s. 18.1 *Federal Courts Act*, R.S.C. 1985, c. F-7). Here, Mr. Pomfret was clearly out of time for filing an application for judicial review in relation to the decision of the SDC.

[8] Mr. Pomfret suggests that the decision under review was really made in two stages – the first part was the decision of the SDC on his grievance and the second part was the decision not to reconsider the grievance. Therefore, he argues, his application for judicial review was filed on time.

[9] I cannot agree with Mr. Pomfret on this point. His submissions relate solely to the original decision. Further, a request to reconsider or reopen a decision does not extend the time for filing an application for judicial review: *Didone v. Sakno*, 2003 FC 1530, [2003] F.C.J. No. 1945 (QL), aff'd 2005 FCA 62; *Taylor v. Public Service Commission of Canada*, 2003 FCT 566, [2003] F.C.J. No. 730 (QL).

III. Conclusion and Disposition

[10] Mr. Pomfret's application for judicial review in respect of the SDC's decision of January 24, 2007 was not filed until June 25, 2007, well after the 30-day deadline. Accordingly, I must dismiss his application for judicial review. There is no order relating to costs.

JUDGMENT

THIS COURT'S JUDGMENT IS that

1. The application for judicial review is dismissed.

“James W. O’Reilly”

Judge

FEDERAL COURT

NAME OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: T- 1173-07

STYLE OF CAUSE: POMFRET v. ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: April 23, 2008

**REASONS FOR JUDGMENT
AND JUDGMENT:** O'REILLY J.

DATED: November 3, 2008

APPEARANCES:

Stanley Leonard Pomfret SELF-REPRESENTED APPLICANT

Lisa Laird FOR THE RESPONDENT

SOLICITORS OF RECORD:

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