

Federal Court of Appeal



Cour d'appel fédérale

Date: 20141205

Docket: A-200-14

Citation: 2014 FCA 286

**CORAM: NADON J.A.
PELLETIER J.A.
TRUDEL J.A.**

BETWEEN:

ROBERT RAINVILLE

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Motion dealt with in writing without appearance of the parties.

Order delivered at Ottawa, Ontario, on December 5, 2014.

REASONS FOR ORDER BY:

NADON J.A.

CONCURRED IN BY:

**PELLETIER J.A.
TRUDEL J.A.**

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REASONS FOR ORDER

NADON J.A.

[1] For the following reasons, I conclude that the appeal should be dismissed.

[2] On April 9, 2014, the appellant filed a notice of appeal from the decision of Tremblay-Lamer J. (the judge) issued on March 10, 2014, and dismissing his motion for an extension of time to file an application for judicial review of the offender grievance response decision (third level) regarding grievance No. V30R00015777 dated November 20, 2013.

[3] As appears from the order, the judge dismissed the appellant's motion for an extension of time on the basis that he had given no explanation for the delay, had not shown a continuing intention to pursue the application and had not satisfied her that there were serious arguments in his case.

[4] Following the filing of the agreement on the content of the record on May 8, 2014, the case remained inactive until the parties were served with a notice of status review issued by Trudel J.A. on October 16, 2014.

[5] In reply to the notice of status review, the appellant filed, on November 17, 2014, his submissions stating the reasons why the proceeding should not be dismissed for delay and also explaining why the case had remained inactive since May 8, 2014.

[6] According to the appellant, the delay was caused by a variety of administrative changes at his counsel's firm. The appellant explained that because of flooding at his counsel's firm and his counsel's many office and file moves, his counsel had been unable to properly keep up with his cases. The appellant also explained that because his counsel's new secretary was unfamiliar with the deadline registers, she was unable to see that the deadline had expired in his file.

[7] The appellant explained that, as a result of these events, his counsel's firm had to be restructured and the restructuring was completed in late September 2014, through, among other things, the hiring of new employees and the completion of the move to the firm's new offices.

According to the appellant, all of this explains why his counsel did not realize that he was late in this file until receiving the notice of status review.

[8] In my opinion, these explanations are not acceptable and cannot justify the delay in proceeding with this case and, in particular, in filing the appellant's appeal book and memorandum. It is important to mention that the appellant did not file any affidavits from his counsel or his counsel's employees to explain the events at his counsel's firm.

[9] It is also important to mention that the appellant does not make any arguments regarding the chances of his appeal succeeding. At the very least the appellant should have attempted to convince me that his appeal was not futile.

[10] In these circumstances, there is only one possible conclusion and that is to dismiss the appeal with costs.

“M Nadon”

J.A.

“I agree.
J.D. Denis Pelletier, J.A.”

“I agree.
Johanne Trudel, J.A.”

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-200-14

STYLE OF CAUSE: ROBERT RAINVILLE v.
ATTORNEY GENERAL OF
CANADA

DATED: DECEMBER 5, 2014

REASONS FOR ORDER BY: NADON J.A.

CONCURRED IN BY: PELLETIER J.A.
TRUDEL J.A.

SOLICITORS OF RECORD:

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FOR THE APPELLANT
ROBERT RAINVILLE

FOR THE RESPONDENT
ATTORNEY GENERAL OF
CANADA