

Federal Court of Appeal



Cour d'appel fédérale

Date: 20150311

Docket: A-141-14

Citation: 2015 FCA 67

**CORAM: PELLETTIER J.A.
WEBB J.A.
BOIVIN J.A.**

BETWEEN:

**JONATHON DAVID HOLLAND
(AKA JONATHAN DAVID HOLLAND)
BY HIS LITIGATION GUARDIAN,
ZSUZSANNA HOLLAND AND
THE SAID ZSUZSANNA HOLLAND**

Appellants

and

CANADIAN HUMAN RIGHTS COMMISSION

Respondent

Heard at Vancouver, British Columbia, on March 10, 2015.

Judgment delivered at Vancouver, British Columbia, on March 11, 2015.

REASONS FOR JUDGMENT OF THE COURT BY:

BOIVIN J.A.

CONCURRED IN BY:

**PELLETIER J.A.
WEBB J.A.**

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REASONS FOR JUDGMENT OF THE COURT

BOIVIN J.A.

[1] This is an appeal from an order of Hughes J. of the Federal Court, sitting as a motions judge (the motions judge), dated March 11, 2014. The motions judge upheld the order of Prothonotary Lafrenière sitting as a case management judge. In his order dated November 21, 2013 issued pursuant to a status review, Prothonotary Lafrenière required Mr. Jonathan Holland

and his mother, Ms. Zsuzsanna Holland (the appellants), to file written submissions showing cause why their application for judicial review should not be dismissed.

[2] The appellants appealed Prothonotary Lafrenière's show cause order. The motions judge's dismissal of this appeal is now under appeal before this Court.

[3] In his order, the motions judge mentioned that prior to Prothonotary Lafrenière's show cause order, Prothonotary Tabib required, in an order dated October 29, 2013, that the appellants "file a Notice of Intention to Act in Person or Notice of Appointment of a Solicitor of Record accompanied by a letter setting out a proposed schedule for the further steps to be taken in this proceeding, failing which a Notice of Status Review may be issued by the case management judge" (Motions judge order at p 1). No documents of the type required by Prothonotary Tabib were filed and thus Prothonotary Lafrenière issued the show cause order.

[4] Although the appellants sought to bring *Charter* issues on their motion to appeal the show cause order, the motions judge was of the view that the issues before both Prothonotaries were directed to management and advancement of proceedings.

[5] The motions judge also rejected the renewed request that Ms. Zsuzsanna Holland be given leave to represent her son or that the Court appoint a lawyer because these questions had already been decided by Justice Beaudry (*Holland v. Canada* (Human Rights Commission),

2011 FC 1125) [*Holland FC*] whose decision was affirmed by our Court (*Holland v. Canada* (Human Rights Commission), 2012 FCA 187 [*Holland FCA*]).

[6] On appeal before this Court, the appellants essentially contend that the motions judge abused his discretion. According to the appellants, Mr. Holland did respond to the orders of the Prothonotaries “to the best of his abilities”, and did show why his case should not be dismissed. Accordingly, the appellants request that the appeal be granted, the motions judge’s order be overturned, that Mr. Holland be declared a person under a legal disability and declared to be able to access “the only representation available to him” being his mother.

[7] In oral submissions, Ms. Zsuzsanna Holland stressed that her son was disabled. However, this legal issue has also been decided in prior decisions (*Holland FC* and *Holland FCA*) and is therefore beyond the scope of this appeal. It follows that the only issue to be determined by this Court is whether the motions judge was clearly wrong to uphold Prothonotary Lafrenière’s order which stated:

1. The Applicants are required to show cause by written submissions, to be served and filed no later than December 2, 2013, why the application should not be dismissed for failure to comply with the Order of the Prothonotary Tabib dated October 29, 2013.
2. The documents tendered by the Applicants on November 18, 2013 shall be rejected for filing on the grounds that they are not in the form required by the *Rules* or the Order of

the Prothonotary Tabib dated October 29, 2013, and in any event are not accompanied by proof of service.

[8] It is well established that this Court should only interfere with the decision of a motions judge reviewing an order of a Prothonotary if it was arrived at on a wrong basis or was plainly wrong: see *Z.I. Pompey Industrie v. ECU-Line N.V.*, 2003 SCC 27, [2003] 1 S.C.R. 450.

[9] I am of the view that the motions judge properly declined to interfere with Prothonotary Lafrenière's decision, as it was not clearly wrong, and did not amount to an improper exercise of his discretion. I therefore agree with the motions judge that the show cause order rendered by Prothonotary Lafrenière was appropriate.

[10] As a result, I would dismiss the appeal with costs in the amount of \$750 all inclusive.

"Richard Boivin"

J.A.

"I agree
J.D. Denis Pelletier J.A."

"I agree
Wyman W. Webb J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-141-14

STYLE OF CAUSE: JONATHON DAVID HOLLAND
(AKA JONATHAN DAVID
HOLLAND) BY HIS LITIGATION
GUARDIAN, ZSUZSANNA
HOLLAND AND THE SAID
ZSUZSANNA HOLLAND v.
CANADIAN HUMAN RIGHTS
COMMISSION

PLACE OF HEARING: VANCOUVER, BRITISH
COLUMBIA

DATE OF HEARING: MARCH 10, 2015

REASONS FOR JUDGMENT OF THE COURT BY: BOIVIN J.A.

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

DATED: MARCH 11, 2015

APPEARANCES:

Zsuzsanna Holland FOR THE APPELLANTS

Daniel Poulin FOR THE RESPONDENT

SOLICITORS OF RECORD:

Self-represented FOR THE APPELLANTS
Kleena Kleene, British Columbia

Canadian Human Rights Commission FOR THE RESPONDENT
Ottawa, Ontario