

Federal Court of Appeal



Cour d'appel fédérale

Date: 20170519

Docket: A-342-16

Citation: 2017 FCA 108

**CORAM: NADON J.A.
DAWSON J.A.
GAUTHIER J.A.**

BETWEEN:

SHAMATIE DEVI

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Vancouver, British Columbia, on May 17, 2017.

Judgment delivered at Vancouver, British Columbia, on May 19, 2017.

REASONS FOR JUDGMENT BY:

GAUTHIER J.A.

CONCURRED IN BY:

**NADON J.A.
DAWSON J.A.**

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REASONS FOR JUDGMENT

GAUTHIER J.A.

[1] Shamatie Devi appeals the order of Diner J. of the Federal Court dismissing her motion for an extension of time filed on August 8, 2016 to commence an application for judicial review in respect of a decision dated August 9, 2015 but received by the Appellant on September 9, 2015.

[2] The decision the appellant wishes to contest is a final report of the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police (R.C.M.P.) (the Commission) which found no merit in her amended public complaint that a member of the R.C.M.P. “failed to lay charges against the complainant’s employer that was in contravention of CCC S 217.1”.

[3] The Commission determined that the final report of the R.C.M.P. in respect of the complaint filed by the appellant was reasonable. It agreed that the R.C.M.P. did not have the authority to file criminal charges without the approval of a Crown counsel of British Columbia. The Commission was satisfied that it was reasonable to conclude that the member of the R.C.M.P. conducted a reasonably thorough investigation and reviewed the available information with Crown counsel. Counsel refused to approve charges due to the high threshold for conviction in criminal negligence cases. In that respect, it is important to note that the criminal charges sought are not against the perpetrator of the assault but rather against her employer for failure to provide a safe work environment.

[4] The Federal Court applied the appropriate test to determine the appellant’s motion referring to our Court’s decision in *Apotex Inc. v. Canada (Health)*, 2012 FCA 322 at paras. 12-20.

[5] The appellant provided no legally acceptable explanation for the long delay in filing her motion. It appears that the appellant chose to pursue avenues other than judicial review after September 2016. The appellant has not demonstrated that her proposed application has any merit considering the nature of the complaint, the R.C.M.P.’s mandate, the Commission’s mandate, the

Federal Court's jurisdiction and the remedies sought by the appellant, including for example a declaration that the Chair of the Commission committed a criminal offence.

[6] In my view, the appellant has not demonstrated any reviewable error on the part of the Federal Court nor has she persuaded me that the Federal Court misapprehended the facts.

[7] Although I have great sympathy for the appellant's difficulties and despite her comprehensive submissions, I see no basis for this Court's intervention. Therefore, the appeal should be dismissed with costs fixed at an amount of \$1,250.00 (inclusive of disbursements and taxes).

"Johanne Gauthier"

J.A.

"I agree

M. Nadon J.A."

"I agree

"Eleanor R. Dawson J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-342-16

(APPEAL FROM AN ORDER OF THE HONOURABLE MR. ALAN S. DINER OF THE FEDERAL COURT, DATED AUGUST 24, 2016, DOCKET NO. 16-T-28)

STYLE OF CAUSE: SHAMATIE DEVI v. ATTORNEY
GENERAL OF CANADA

PLACE OF HEARING: VANCOUVER, BRITISH
COLUMBIA

DATE OF HEARING: MAY 17, 2017

REASONS FOR JUDGMENT BY: GAUTHIER J.A.

CONCURRED IN BY: NADON J.A.
DAWSON J.A.

DATED: MAY 19, 2017

APPEARANCES:

Shamatie Devi FOR THE APPELLANT

Liliane Bantourakis FOR THE RESPONDENT
Courtenay Landsiedel

SOLICITORS OF RECORD:

Self-Represented FOR THE APPELLANT

William F. Pentney FOR THE RESPONDENT
Deputy Attorney General of Canada