

Date: 20080421

Docket: A-334-07

Citation: 2008 FCA 147

**CORAM: RICHARD C.J.
EVANS J.A.
SHARLOW J.A.**

BETWEEN:

KARLHEINZ SCHREIBER

Appellant

and

**THE ATTORNEY GENERAL OF CANADA,
THE SOLICITOR GENERAL OF CANADA,
AND THE COMMISSIONER OF THE RCMP**

Respondents

Heard at Edmonton, Alberta, on April 21, 2008.

Judgment delivered at Edmonton, Ontario, on April 21, 2008.

REASONS FOR JUDGMENT OF THE COURT BY:

EVANS J.A.

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REASONS FOR JUDGMENT

(Delivered from the Bench, at Edmonton, Alberta, on April 21, 2008.)

EVANS J.A.

[1] This is an appeal by Karlheinz Schreiber from a decision of Justice Phelan of the Federal Court (2007 FC 618) dismissing an application for judicial review to stay his extradition to Germany. Mr Schreiber alleges that members of the RCMP and other Canadian government officials have violated his rights under the *Canadian Charter of Rights and Freedoms*, thus tainting the surrender order against him and its implementation.

[2] We are all of the view that this appeal is without merit. Justice Phelan committed no reversible error when he exercised his discretion to dismiss the application without entering

into the substance of Mr Schreiber's allegations. Each and every one of these allegations either was or could have been raised before the Ontario courts in the various proceedings brought there by Mr Schreiber to challenge all stages of the extradition process, or was or could have been put before the Minister of Justice as the basis of a reconsideration of the surrender order. If the Ontario courts had found any of these issues to have merit, they could have granted an effective remedy.

[3] Counsel has provided no sufficient reasons why the issues raised in this application for judicial review should be relitigated in the Federal Courts in an attempt to prevent Mr Schreiber's surrender to stand trial in Germany. The fact that the Minister of Justice is not named as a respondent in this proceeding, or that the bases on which Mr Schreiber seeks to rely may constitute a "course of conduct" raising questions of Charter breaches, does not establish that Justice Phelan committed reversible error in the exercise of his discretion. The important principle of finality in the litigation process has not been abolished by the Charter.

[4] For these reasons, the appeal will be dismissed with costs.

"John M. Evans"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-334-07

**APPEAL FROM A JUDGMENT OF THE HONOURABLE MR. JUSTICE
PHELAN DATED JUNE 11, 2007, DOCKET NO. T-389-07)**

STYLE OF CAUSE: Karlheinz Schreiber v.
The Attorney General of
Canada, The Solicitor
General of Canada and
The Commissioner of the
RCMP

PLACE OF HEARING: Edmonton, AB

DATE OF HEARING: April 21, 2008

REASONS FOR JUDGMENT OF THE COURT BY: RICHARD, EVANS,
SHARLOW, C.J., JJ.As

DELIVERED FROM THE BENCH BY: EVANS, J.A.

APPEARANCES:

Mr. Robert Hladun FOR THE APPELLANT

Mr. James Shaw FOR THE RESPONDENT

SOLICITORS OF RECORD:

Hladun & Company FOR THE APPELLANT
Edmonton, AB

John H. Sims, Q.C. FOR THE RESPONDENT
Deputy Attorney General of Canada
Ottawa, ON