

Date: 20090209

**Docket: A-532-08
A-534-08**

Citation: 2009 FCA 36

Present: SHARLOW J.A.

BETWEEN:

JOHN DETORAKIS

Appellant

and

**THE CHIEF EXECUTIVE OFFICER OF THE PUBLIC SECTOR INTEGRITY CANADA
(also known as THE PUBLIC SECTOR INTEGRITY COMMISSIONER)**

and

THE ATTORNEY GENERAL OF CANADA

Respondents

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on February 9, 2009.

REASONS FOR ORDER BY:

SHARLOW J.A.

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REASONS FOR ORDER

SHARLOW J.A.

[1] The appellant John Detorakis has filed an application in the Federal Court (T-1078-08) seeking certain administrative law remedies against the Public Sector Integrity Commissioner. On October 7, 2008, Justice Phelan made two interlocutory orders in that application. The first order requires the Attorney General of Canada to be named as respondent in place of the Public Sector Integrity Commissioner. The second order requires the application to be specially managed. Mr. Detorakis has appealed both interlocutory orders, naming as respondents both the Public Sector Integrity Commissioner and the Attorney General of Canada.

[2] Mr. Detorakis also moved to stay both interlocutory orders, but those motions were dismissed on November 26, 2008 by Justice Létourneau.

Motions re proper respondent in appeals

[3] Before me are motions by the Public Sector Integrity Commissioner to be removed as respondent in both appeals. Mr. Detorakis opposes the motions because he believes that unless the Commissioner is named as a respondent, he will have no effective remedy for his complaint that the Commissioner is in breach of his obligation under Rule 318 to provide certain tribunal records. In my view, Mr. Detorakis' concern is unfounded. If a breach of Rule 318 is established, the Federal Court has the jurisdiction to make an order that will remedy the breach, even if the Commissioner is not named as a respondent.

[4] The Attorney General of Canada is the only proper respondent in Mr. Detorakis' application in the Federal Court, and that will remain the case unless Mr. Detorakis' appeal of the first order of Justice Phelan is successful. Therefore, the Attorney General of Canada is the only proper respondent in these interlocutory appeals. For that reason, the motions of the Public Sector Integrity Commissioner will be granted.

Motion re Rule 318

[5] Mr. Detorakis has filed a motion in relation to the first interlocutory appeal for an order under Rule 350 requiring the Commissioner to produce certain documents. This motion will be dismissed. I am not satisfied that any tribunal records are needed to resolve an interlocutory appeal

on the question of whether the Attorney General of Canada is the only proper respondent in an application for judicial review.

Costs

[6] The costs of these motions will be costs in the cause.

“K. Sharlow”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-532-08
A-534-08

STYLE OF CAUSE: John Detorakis v. The Chief
Executive Officer of the Public
Service Integrity Canada and The
Attorney General of Canada

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY: SHARLOW J.A.

DATED: February 9, 2009

WRITTEN REPRESENTATIONS BY:

John Detorakis

ON HIS OWN BEHALF

Joe Friday

FOR THE RESPONDENT

SOLICITORS OF RECORD:

General Counsel
Office of the Public Section
Integrity Canada

FOR THE RESPONDENT