

Federal Court
of Appeal



CANADA

Cour d'appel
fédérale

Date: 20091211

Docket: A-173-09

Citation: 2009 FCA 369

**Present: LÉTOURNEAU J.A.
NOËL J.A.
TRUDEL J.A.**

BETWEEN:

MR. SAM SHARP

Appellant

and

**PASSPORT CANADA,
DEPARTMENT OF FOREIGN AFFAIRS
AND INTERNATIONAL TRADE CANADA,
MS. MARIE-PIERRE MARTEL,
THE HONOURABLE MINISTERS MR. PETER MACKAY,
MR. MAXIME BERNIER AND MR. DAVID EMERSON,
MR. STEPHAN MCLAUGHLIN/THE CONSUL,
THE CONSULATE GENERAL OF CANADA,
GUANGZHOU, P.R. CHINA**

Respondents

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on December 11, 2009.

REASONS FOR ORDER BY:

LÉTOURNEAU J.A.

CONCURRED IN BY:

NOËL J.A.
TRUDEL J.A.

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REASONS FOR ORDER

LÉTOURNEAU J.A.

[1] The appellant was issued a Notice of Appeal on April 14, 2009 against a decision of Dawson J. (as she then was) dismissing with costs payable forthwith and in any event of the cause the appellant's motion for an order declaring invalid an order of Prothonotary Lafrenière, dated

December 11, 2008. The Prothonotary ruled the appellant's two-part motion to declare invalid the motion record filed by the defendants (respondents) and to obtain judgment by default on his action moot for the first part, and an abuse of process for the second part. The appellant challenged the Prothonotary's decision by way of motion. Dawson J. found that the motion lacked merit, was duplicative and should not have been brought. It is from this decision that the present appeal lies.

[2] The appellant is self-represented and his appeal has turned into nothing less than a saga unduly taxing our judicial and administrative resources.

[3] On April 30, 2009, the appellant sent a Requisition to obtain a few documents to

1. The Chief Administrator of the Federal Courts;
2. The Deputy Chief Administrator;
3. The Regional Director General;
4. The Director, Edmonton Federal Court;
5. Madam Justice Dawson;
6. Madam Justice Hansen; and
7. The Attorney General of Canada.

[4] On May 20, 2009, he sent another Requisition (this time in relation to the contents of the Appeal Book) to

1. The Edmonton Federal Court;
2. The Chief Administrator of the Federal Courts; and

3. The Deputy Chief Administrator.

[5] On the very same day, the Registry Officer provided a response and assistance to the appellant.

[6] On June 9, 2009, the appellant filed a new Requisition addressed to the same three persons mentioned above. This time he required a certified copy of the defendants' (respondents') "proof of service on appellant by courier on 04-JUN-2009" and a certified copy of the courier tracking number of the defendants' (respondents') "proof of service on appellant by courier on 04-JUN-2009".

[7] On June 12, 2009, yet another Requisition was filed, addressed to the same persons, requiring the following:

I REQUIRE:

A certified copy, in writing, of the reasons why the Federal Court of Appeal prejudiced the appellant?

A certified copy, in writing, of why the Registry of the Federal Court of Appeal did not object to the non-compliances of the defendants' (respondents') with the rules of the *Federal Courts Rules*, particularly rule 369?

A certified copy, in writing, of why the Federal Court of Appeal did not comply with the rules of the *Federal Courts Rules*, particularly rule 369?

[8] Other unnecessary Requisitions of various kinds were filed on June 15, 2009 (two were filed on that date), June 16, 2009, July 6, 2009, August 20, 2009, August 31, 2009, September 10, 2009, September 16, 2009, September 17, 2009, October 21, 2009 and November 23, 2009. All these requisitions have been answered by the administrative staff.

[9] The appellant has also made a number of useless motions:

- a) motion to determine the content of the appeal book rendered necessary by the appellant's inflexibility and lack of cooperation for which the appellant was condemned to pay costs in the amount of \$500.00 payable forthwith and in any event of the cause (see the Court's order of July 9, 2009 and the reasons for order);
- b) a motion for reconsideration of the July 9th order, dismissed with costs in the amount of \$800.00 payable to the respondents forthwith and in any event of the cause;
- c) a motion for a stay dismissed on October 22, 2009 by order of the Court; and
- d) another motion for a stay served on November 4, 2009, which is pending before me.

[10] The appellant has been ordered to pay costs:

- a) on March 27, 2009 (\$1,000.00 in file T-1414-08);
- b) on April 1, 2009 (\$850.00 in file T-1414-08);

- c) on July 9, 2009 (\$500.00 in file A-173-09); and
- d) on September 9, 2009 (\$800.00 in file A-173-09).

[11] By motion, the respondents sought security for costs of the appeal. By order dated September 9, 2009, this Court ordered the appellant to pay, within 15 days of the order, the amount of \$7,000.00 into Court or file a bond for the required amount that has been approved by an order of this Court. In addition, the appellant was condemned to pay \$500.00 as costs of the motion forthwith and in any event of the cause.

[12] The appellant has flouted all the costs orders of this Court although payment was sought from him. He has also failed to provide the security for costs ordered by this Court.

[13] The behaviour of the appellant amounts to nothing less than an abuse of the process and of the Court. The time has now come to put an end to this abuse in the interest of justice.

[14] For these reasons, the appeal will be dismissed with costs payable by the appellant to the respondents in the amount of \$4,000.00

“Gilles Létourneau”

J.A.

“I agree
Marc Noël J.A.”

“I agree
Johanne Trudel J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-173-09

STYLE OF CAUSE: Mr. Sam Sharp v. Passport Canada et al.

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY: LÉTOURNEAU J.A.

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

DATED: December 11, 2009

WRITTEN REPRESENTATIONS BY:

Mr. Sam Sharp FOR HIMSELF

Mr. Graham C. Laschuk FOR THE RESPONDENTS

SOLICITORS OF RECORD:

John H. Sims, Q.C. FOR THE RESPONDENTS
Deputy Attorney General of Canada