

Federal Court of Appeal



Cour d'appel fédérale

Date: 20100527

Docket: A-12-10

Citation: 2010 FCA 136

Present: PELLETIER J.A.

BETWEEN:

RICHARD TIMM

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Motion dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on May 27, 2010.

REASONS FOR ORDER:

PELLETIER J.A.

Federal Court of Appeal



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REASONS FOR ORDER

PELLETIER J.A.

[1] As is his right, Mr. Timm applied for review of his criminal conviction by the Minister of Justice pursuant to section 696.1 of the *Criminal Code*, S.C. 1985, c. C-46. The process proved to be slower than Mr. Timm would have liked, so he filed an application with the Federal Court for the issuance of a writ of *mandamus* requiring the Minister to deal with his application for review. Before the Federal Court heard his application, the Minister delivered his decision refusing to intervene with respect to his criminal conviction. Given that the decision sought in the application for review had been rendered, the Federal Court dismissed Mr. Timm's application to it. Mr. Timm appealed the decision of the Federal Court. In that appeal, Mr. Timm is challenging the Minister's decision.

[2] This Court issued an order on April 9, 2010, dismissing a motion filed by Mr. Timm seeking the production of various documents in the context of his appeal. It was explained to him at that time that he had brought an appeal against a Federal Court decision and that the provisions of the *Federal Courts Rules*, SOR/98-106, dealing with the transmission of documents in the context of an application for judicial review do not apply to an appeal.

[3] Mr. Timm filed another motion invoking sections 7 and 24 of the *Charter of Rights and Freedoms* in support of his application to have transmitted to the Minister of Justice the defence that he had presented to the Criminal Conviction Review Group.

[4] Mr. Timm is attacking the wrong decision. His appeal from the Federal Court's decision is doomed to failure. The decision he was seeking to constrain the Minister to deliver has been delivered. The decision that Mr. Timm is challenging is either that of the Minister or that of the Criminal Conviction Review Group, which are decisions that he cannot challenge in the context of this appeal. The failings he imputes to the Criminal Conviction Review Group cannot be adjudicated upon in the context of his appeal from the Federal Court's decision.

[5] Neither the right to make full answer and defence nor the remedies under section 24 of the Charter are involved here. Mr. Timm is attempting to turn this appeal into something that it is not and cannot become.

[6] The application will be dismissed with costs.

“J.D. Denis Pelletier”

J.A.

Certified true translation
Erich Klein

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-12-10

STYLE OF CAUSE: RICHARD TIMM v. ATTORNEY
GENERAL OF CANADA

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY: PELLETIER J.A.

DATED: MAY 27, 2010

WRITTEN REPRESENTATIONS:

RICHARD TIMM FOR THE APPELLANT, ON HIS
OWN BEHALF

JACQUES SAVARY FOR THE RESPONDENT

SOLICITORS OF RECORD:

RICHARD TIMM FOR THE APPELLANT, ON HIS
LA MACAZA, QUEBEC OWN BEHALF

MYLES J. KIRVAN FOR THE RESPONDENT
DEPUTY ATTORNEY GENERAL OF CANADA