

Federal Court of Appeal



Cour d'appel fédérale

Date: 20190918

Docket: A-261-19

Citation: 2019 FCA 234

[ENGLISH TRANSLATION]

**CORAM: BOIVIN J.A.
RIVOALEN J.A.
LOCKE J.A.**

BETWEEN:

CPL. LOUIS DUFOUR

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Motion dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on September 18, 2019.

**REASONS FOR ORDER BY:
CONCURRED IN BY:**

**LOCKE J.A.
BOIVIN J.A.
RIVOALEN J.A.**

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REASONS FOR ORDER

LOCKE J.A.

[1] This decision concerns a motion by the respondent to have the notice of appeal dismissed in this case.

[2] This appeal follows a decision by the Federal Court (Justice Diner) dated June 14, 2019, striking out the originating document filed by the appellant. The following are some of the reasons provided by the Federal Court:

1. The appellant failed to state the basis of his constitutional challenge to the unspecified statutory provisions related to [TRANSLATION] “the obligation to pay tax instalments”;
2. There was no clarity on how the statutory provisions are equivalent to theft under the *Criminal Code*;
3. The originating document was written in a general way and its scope is indeterminate;
4. The originating document does not denounce any specific fault on the part of the respondent; and
5. It was plain and obvious that the originating document disclosed no reasonable cause of action and that the appellant’s proceeding is frivolous and vexatious.

[3] The notice of appeal aims to set aside the Federal Court decision, but does not contain any allegation that the Federal Court committed an error. The appellant complains rather vaguely about a miscarriage of justice and a continuing offence. On the whole, he is making the same arguments that were rejected by the Federal Court, without providing the details to which the Federal Court referred.

[4] The respondent’s motion points out the shortcomings in the notice of appeal. The respondent also cites the case law confirming the Court’s power to dismiss an appeal on motion where it is frivolous, vexatious or improper or where it has no reasonable prospect of success or where it is plain and obvious that the appeal cannot succeed. The respondent adds that a decision on a motion to strike is discretionary. Thus, the Court of Appeal, when deciding an appeal from such a decision, must show deference where there has been no error of law, no misrepresentation of the facts, no failure to give proper weight to the relevant factors, and no flagrant injustice.

Finally, the respondent submits that because of the shortcomings noted by the Federal Court and because there were no allegations that the Federal Court committed an error, this appeal is bound to fail and should therefore be dismissed.

[5] In his written representations in support of the proceeding, the appellant does not address the shortcomings raised by the respondent, even after having had the opportunity to read the respondent's representations. I agree, essentially for the same reasons as those presented by the respondent, that a number of necessary details in support of this appeal are missing and that the appeal cannot succeed.

[6] I would dismiss the appeal with costs.

“George R. Locke”

J.A.

“I concur.
Richard Boivin J.A.”

“I concur.
Marianne Rivoalen J.A.”

Certified true translation
Janine Anderson, Revisor

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-261-19

STYLE OF CAUSE: CPL. LOUIS DUFOUR v. HER
MAJESTY THE QUEEN

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES.

REASONS FOR ORDER BY: LOCKE J.A.

CONCURRED IN BY: BOIVIN J.A.
RIVOALEN J.A.

DATED: SEPTEMBER 18, 2019

WRITTEN REPRESENTATIONS:

Cpl. Louis Dufour REPRESENTING HIMSELF

Marieke Bouchard FOR THE RESPONDENT

SOLICITORS OF RECORD:

Nathalie G. Drouin
Deputy Attorney General of Canada
Ottawa, Ontario

FOR THE RESPONDENT
HER MAJESTY THE QUEEN