

Federal Court of Appeal



Cour d'appel fédérale

Date: 20210204

Docket: A-57-20

Citation: 2021 FCA 21

**CORAM: BOIVIN J.A.
GLEASON J.A.
LEBLANC J.A.**

BETWEEN:

MACKENZY CADOSTIN

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard by online video conference hosted by the Registry
on February 2, 2021.

Judgment delivered at Ottawa, Ontario, on February 4, 2021.

REASONS FOR JUDGMENT BY:

BOIVIN J.A.

CONCURRED IN BY:

**GLEASON J.A.
LEBLANC J.A.**

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REASONS FOR JUDGMENT

BOIVIN J.A.

[1] Mr. Cadostin (the appellant) appeals from a judgment of the Federal Court (*per* Gascon J.) rendered on January 31, 2020 (2020 FC 183). The Federal Court dismissed the appellant's application for judicial review of a decision rendered on April 16, 2019, by the Public Service Commission of Canada (Commission). The Commission found that the appellant had committed fraud within the meaning of section 69 of the *Public Service Employment Act*, S.C.

2003, c. 22, ss. 12, 13 (PSEA) by knowingly providing false information regarding his employment references in an appointment process within the federal public service.

[2] The appellant sought judicial review of the Commission's decision before the Federal Court arguing that the Commission's investigation process had breached his right to procedural fairness, as well as his rights under the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK), 1982, c 11 (Charter)*. The appellant also submitted that the Commission's decision and corrective action ordered against him were unreasonable. The Federal Court, in a detailed and thorough analysis, found that the Commission acted within its jurisdiction, the investigation was procedurally fair, the ultimate finding of fraud was reasonable in light of the evidence, the decision and corrective measures imposed by the Commission were justified and intelligible, and the appellant's *Charter* rights were not violated.

[3] When seized of an appeal from an application for judicial review disposed of by the Federal Court, this Court must step into the shoes of the Federal Court and concentrate on the administrative decision in question (*Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36, [2013] 2 S.C.R. 559 [*Agraira*] at para. 46). This Court must therefore focus on the Commission's decision and determine whether, in reviewing it, the Federal Court identified the appropriate standard of review and applied it correctly (*Agraira* at para. 47).

[4] After careful consideration, this appeal cannot succeed.

[5] The appellant has failed to demonstrate that there was any reviewable error in the Commission's decision. In fact, before this Court, the appellant essentially re-argued the same points he submitted to the Commission and before the Federal Court. Indeed, the appellant is asking our Court to re-weigh the evidence in order to render a different decision, which is not our role.

[6] At the end of the appellant's oral submissions, the Court requested that the appellant send a transcript, by email, of the audio recording excerpts he referred to in his submissions. Upon reading the said transcript, they are of no assistance to the appellant.

[7] I find that the decision of the Commission is reasonable as it falls within a range of possible and acceptable outcomes which are defensible in respect of the facts and the law (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, 441 D.L.R. (4th) 1; *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190, at para. 47) and did not violate procedural fairness. As for the Federal Court, it chose the proper standard of review, applied it correctly and did not err in finding that there was no breach of procedural fairness.

[8] In other words, I see no reason to interfere with the Commission's decision. I reach that conclusion substantially for the reasons given by the Federal Court.

[9] I would dismiss the appeal with costs.

"Richard Boivin"

J.A.

"I agree.

Mary J.L.Gleason J.A."

"I agree.

René LeBlanc J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-57-20

STYLE OF CAUSE: MACKENZY CADOSTIN v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: BY ONLINE VIDEO
CONFERENCE

DATE OF HEARING: FEBRUARY 2, 2021

REASONS FOR JUDGMENT BY: BOIVIN J.A.

CONCURRED IN BY: GLEASON J.A.
LEBLANC J.A.

DATED: FEBRUARY 4, 2021

APPEARANCES:

Mackenzie Cadostin

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SELF-REPRESENTED

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Gregory Tzemanakis

FOR THE RESPONDENT

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