

Federal Court of Appeal



Cour d'appel fédérale

Date: 20210226

**Dockets: A-118-20
A-119-20
A-120-20**

Citation: 2021 FCA 40

[ENGLISH TRANSLATION]

**CORAM: NOËL C.J.
RENNIE J.A.
LEBLANC J.A.**

BETWEEN:

THE HONOURABLE GÉRARD DUGRÉ

Appellant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

Dealt with in writing without appearance of parties.

Judgment delivered at Ottawa, Ontario, on February 26, 2021.

REASONS FOR JUDGMENT:

NOËL C.J.

CONCURRED IN BY:

**RENNIE J.A.
LEBLANC J.A.**

Federal Court of Appeal



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REASONS FOR JUDGMENT

NOËL C.J.

[1] These are three appeals by the Honourable Gérard Dugré (the appellant) from three decisions of the Federal Court dismissing, in a single set of reasons (2020 FC 602), his motions to have the inquiry by the Canadian Judicial Council (the CJC) into his conduct stayed pending the decision of the Federal Court on applications for judicial review of interlocutory decisions of the CJC.

[2] Those applications for judicial review were struck by the Federal Court (2020 FC 789) and, on January 20, 2021, this Court summarily dismissed the appellant's appeals from those decisions (*Dugré #1*, 2021 FCA 8). The Court found that the appeals were doomed to fail on the basis of prematurity, while specifying that the dismissal did not infringe on the appellant's right to challenge any interlocutory decision rendered by the CJC once the administrative process was complete.

[3] On February 9, 2021, the Attorney General of Canada brought the present appeals to the Court's attention and requested that they be subject to the same fate. To this end, the Attorney General argues that, following *Dugré #1*, there is no longer any main proceeding that could justify the motions for a stay that are the subject of the three appeals. He adds that given the prematurity of the main proceedings, the motions raise no serious issue and that the other two criteria for obtaining a stay were also not met.

[4] In a direction issued on February 12, 2021, the Court invited the parties to file written submissions on whether, following *Dugré #1*, the present appeals are doomed to fail and should be summarily dismissed on that account.

[5] In his written submissions filed on February 17, 2021, the appellant informed the Court of his intention to seek leave to appeal from *Dugré #1* and requested that the pending appeals be stayed until the Supreme Court disposes of the application or, if leave be granted, of the merits. The Attorney General opposes this request.

[6] I do not consider it to be in the interests of justice to stay the three appeals when regard is had to the fundamental problem that is caused by the multiple interlocutory proceedings brought by the appellant against the inquiry into his conduct (see *Dugré #1* at paragraph 34, citing *Canada (Border Services Agency) v. C.B. Powell Limited*, 2010 FCA 61, [2011] 2 F.C.R. 332 [*C.B. Powell*] at paras. 30-32). In my view, the Supreme Court should have before it the full gamut of the interlocutory proceedings introduced by the appellant to date, at a time when the inquiry committee has yet to hold its first hearing day.

[7] The procedural congestion, or even the paralysis of the administrative process, that these proceedings would likely cause if the appellant could introduce them at the time of his choice is at the heart of the principle of non-interference that was set out in *C.B. Powell*. This issue should be considered in its full light and context.

[8] As to whether, following *Dugré #1*, the three appeals should be summarily dismissed, it is sufficient to note that following that decision, there is no longer any main proceeding that could justify the motions for a stay that are the subject of the appeals and that they are accordingly doomed to fail.

[9] I would therefore dismiss the appeals at this time. Since the Attorney General has not sought costs, I propose that none be awarded.

[10] The original of these reasons will be filed in docket A-118-20 and a copy will be filed in dockets A-119-20 and A-120-20 to serve as reasons therein.

“Marc Noël”
Chief Justice

“I agree.
Donald J. Rennie, J.A.”

“I agree.
René LeBlanc, J.A.”

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKETS: A-118-20, A-119-20, A-120-20

DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

STYLE OF CAUSE: THE HONOURABLE GÉRARD
DUGRÉ V. THE ATTORNEY
GENERAL OF CANADA

REASONS FOR JUDGMENT: NOËL C.J.

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

DATED: FEBRUARY 26, 2021

WRITTEN REPRESENTATIONS

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Liliane Bruneau
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