

Federal Court of Appeal



Cour d'appel fédérale

Date: 20210611

Docket: A-64-20

Citation: 2021 FCA 116

**CORAM: BOIVIN J.A.
RENNIE J.A.
LASKIN J.A.**

BETWEEN:

THUYA MAUNG

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Dealt with in writing without the appearance of the parties.

Judgment delivered at Ottawa, Ontario, on June 11, 2021.

REASONS FOR JUDGMENT BY:

RENNIE J.A.

CONCURRED IN BY:

**BOIVIN J.A.
LASKIN J.A.**

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REASONS FOR JUDGMENT

RENNIE J.A.

[1] This Notice of Status Review pursuant to Rule 383.2 of the *Federal Courts Rules*, S.O.R. 98/106 comes before the Court for consideration following a complicated history and lengthy delay.

[2] The Notice of Appeal in this proceeding was filed February 18, 2020. On October 8, 2020, Nadon J.A. granted the appellant a 45 day suspension of proceedings, at his request, to perfect the appeal. On November 24, 2020, when the 45 day period expired, the appellant wrote to counsel for the respondent and to the Registry requesting a further suspension of unspecified time.

[3] On March 19, 2021, the Notice of Status Review was issued.

[4] The appellant did not respond to the Notice of Status Review; rather on April 5, 2021, the appellant sent an email to the unmonitored CAS Decisions email account advising that he was feeling ill, requesting compassion and a further delay. On April 16, 2021 the appellant attempted to file a motion regarding the content of the appeal book. The motion did not conform to the Rules and was not accompanied with proof of service. The Registry sent it to the Court for consideration.

[5] The matter came before Gleason J.A. on April 28, 2021.

[6] Gleason J.A. observed that the appellant did not respond to the obligations imposed on him following the Notice of Status Review. Gleason J.A. reiterated the requirement that the appellant provide a timetable for the completion of next steps and provide an explanation for the delay. Gleason J.A. also directed the appellant to Rule 344 and gave him a further 15 days to respond to the Notice of Status Review.

[7] On May 5, 2021, the appellant filed “submissions” by way of an email forwarding the April 5, 2021 email that had been sent to the wrong email address. The appellant requested a further delay of proceedings.

[8] Based on the material filed, no progress has been made in the preparation of the appeal book, no steps proposed as to how the appeal will move forward on a timely basis and no reasonable explanation for the delay has been offered.

[9] In the absence of some specific evidence that Covid-19 has directly prevented the appellant from responding to the Notice of Status Review, the existence of the pandemic does not, at this point in time, constitute a reasonable explanation for the delay. It is also unclear how the public orders issued in Ontario, and to which the appellant points as justification for delay, have any relevance to his circumstances given his residency in British Columbia and prevent him from taking the necessary steps to perfect the appeal. Further, given the delays to date and the prior status review, the Court will not accept a generalized assertion of health and medical conditions as justifying further delay. Concrete evidence, in the form of a medical certificate, would be required. I am therefore not satisfied that the appellant has met the burden on him to establish why this appeal should not be dismissed for delay.

[10] I would therefore dismiss the appeal without costs.

“Donald J. Rennie”

J.A.

“I agree.

Richard Boivin J.A.”

“I agree.

J.B. Laskin J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-64-20

STYLE OF CAUSE: THUYA MAUNG v. ATTORNEY
GENERAL OF CANADA

DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR JUDGMENT BY: RENNIE J.A.

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

DATED: JUNE 11, 2021

WRITTEN SUBMISSIONS MADE BY:

Thuya Maung ON THEIR OWN BEHALF

Arnav Patel FOR THE RESPONDENT

SOLICITORS OF RECORD:

Nathalie G. Drouin FOR THE RESPONDENT
Deputy Attorney General of Canada