

Federal Court of Appeal



Cour d'appel fédérale

Date: 20221109

Docket: A-297-21

Citation: 2022 FCA 193

[ENGLISH TRANSLATION]

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

BETWEEN:

JULES LÉONARD

Appellant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on November 9, 2022.

REASONS FOR ORDER:

LEBLANC J.A.

CONCURRED IN BY:

GLEASON J.A.
RIVOALEN J.A.

Federal Court of Appeal



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REASONS FOR ORDER

LEBLANC J.A.

[1] A Notice of Status Review (the Notice) dated July 5, 2022, has been issued to the appellant under Rule 382.2 of the *Federal Courts Rules*, SOR/98-106 (the Rules). Rule 382.2 of the Rules states the following:

Status Review — Federal Court of Appeal

Examen de l'état de l'instance — Cour d'appel fédérale

Application or appeal — Federal Court of Appeal

Cour d'appel fédérale — demande ou appel

382.2 If, in an application or appeal commenced in the Federal Court of Appeal, 180 days have elapsed since the issuance of the notice of application or appeal and no requisition for a hearing date has been filed, the Court may issue a notice of status review in Form 382.2 to the parties.

382.2 Dans le cas d'une demande ou d'un appel présenté devant la Cour d'appel fédérale, si cent quatre-vingts jours se sont écoulés depuis la délivrance de l'avis de demande ou de l'avis d'appel et qu'aucune demande d'audience n'a été déposée, la Cour peut délivrer aux parties un avis d'examen de l'état de l'instance, établi selon la formule 382.2.

[2] On November 8, 2021, the appellant filed the Notice of Appeal from a judgment of the Federal Court (indexed as 2021 FC 1056) that dismissed his application for judicial review of a decision by the Minister of Transport of Canada suspending the medical certificate authorizing him to fly certain types of aircraft because of his failure to submit to a psychiatric assessment to address doubts concerning his physical and mental abilities to practise his profession as a pilot. Essentially, the appellant criticized the Federal Court for misapprehending the medical evidence in the record.

[3] The respondent appeared in this appeal on November 16, 2021. In November and December 2021, the parties held discussions with a view to reaching agreement on the content of the appeal book, as required by subsection 343(1) of the Rules. No such agreement was reached. According to Rule 343(3), the appellant was then required to bring a motion requesting that the Court determine the content of the appeal book. No such motion was filed, and the appellant took

no further steps to advance this proceeding after discussions on the contents of the appeal book collapsed in December 2021.

[4] In accordance with the Notice, and as set out in Rule 382.3(1), the appellant, within 30 days after the issuance of the Notice, was required to serve and file representations stating the reasons why the proceeding should not be dismissed for delay. These representations had to include a justification for the delay and a proposed timetable for the completion of the steps necessary to advance the proceeding in an expeditious manner.

[5] In response to the Notice, the appellant filed three [TRANSLATION] “Formal Demands” dated August 17, August 30, and September 19, 2022, challenging the authenticity of the Notice on the grounds that it did not bear the signature of the judge who issued it. On September 27, 2022, the Court issued a direction in which the appellant was asked to [TRANSLATION] “please note that under rule 395(1) of the [Rules], only a copy of the orders made and the reasons given by the Court will be sent to the parties and that the Rules do not require that they be authenticated”. The appellant was also again asked to serve and file the representations required by the Notice and Rule 382.3(1).

[6] On October 21, 2022, in response to the direction of September 27, 2022, the appellant filed representations in which he continued to insist that the Notice was invalid because it was not authenticated. He also denounced the impact of the direction on his fundamental rights and asked the Court to [TRANSLATION] “fulfill [its] duties and obligations contained in [its] Codes”,

while accusing it of bad faith and misrepresentations and of breaching [TRANSLATION] “its obligations and duties of integrity”.

[7] These representations are without merit and, furthermore, vexatious and scandalous. They must be rejected. As the September 27 direction reminded the appellant, under Rule 395(1) of the Rules, only a copy of the orders made and the reasons given by the Court will be sent to the parties, and the Rules do not require that they be authenticated. The Court’s practice is governed by this provision when it sends the parties, or members of the public who request it, an order or a judgment and the accompanying reasons. This provision applies to all litigants, and there is no reason to depart from it for the frivolous grounds raised by the appellant. The integrity of the status review process established by the Rules and the notices and decisions issued by the Court are at stake.

[8] With respect to the actual requirements of the Notice and Rule 382.3(1), the appellant is simply asking the Court to [TRANSLATION] “kindly grant [him] a hearing date to proceed with [the] case in docket A-297-21, at the Court’s earliest convenience”. This appeal is far from ready to be heard, however, because several procedural steps are yet to be completed (agreement or determination by the Court of the content of the appeal book, preparation and filing of the appeal book, filing and service of the parties’ memoranda and requisition for hearing). In this regard, the representations of October 21, 2022, did not include what they should have, namely, they did not provide any justification for the appellant’s delay in advancing the appeal and did not propose a timetable indicating the measures required to complete these steps in an expeditious manner.

[9] That in and of itself is sufficient to dismiss this appeal. As this Court pointed out in *Xu v. Murphy*, 2010 FCA 140 at paragraph 2 (*Xu*), an appellant who must respond to a Notice of Status Review “must set out the reasons for the delay in proceeding with his appeal and propose a timetable for the remaining steps to be taken in the appeal: see Rule 382.3(1) of the [Rules]”. In that case, as here, the appellant did none of these things and did not even take “the first step to perfect his appeal, namely to settle the contents of the appeal book, either by agreement or by motion.”

[10] This Court has held that these omissions “are sufficient ground to dismiss the appeal on the ground of delay” (*Xu* at para. 2). In this case, these same omissions are all the more sufficient as grounds to dismiss this appeal for delay because the direction of September 27, 2022, gave the appellant a second opportunity to respond to the Notice and meet the requirements of Rule 382.3(1). He did not do so and merely rehashed incomprehensible arguments for which there was absolutely no basis.

[11] For all these reasons, I am not persuaded that this appeal should continue. Accordingly, and as allowed by Rule 382.4(2), I would dismiss this appeal, with costs against the appellant.

“René LeBlanc”

J.A.

“I agree.

Mary J. L. Gleason J.A.”

“I agree.

Marianne Rivoalen J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-297-21

STYLE OF CAUSE: JULES LÉONARD v. THE
ATTORNEY GENERAL OF
CANADA

DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER: LEBLANC J.A.

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

DATED: NOVEMBER 9, 2022

WRITTEN SUBMISSIONS BY:

Jules Léonard THE APPELLANT

SOLICITORS OF RECORD:

A. François Daigle
Deputy Attorney General of Canada FOR THE RESPONDENT