

Federal Court of Appeal



Cour d'appel fédérale

Date: 20241129

Docket: A-130-22

Citation: 2024 FCA 203

**CORAM: GLEASON J.A.
LOCKE J.A.
HECKMAN J.A.**

BETWEEN:

ALLEN TEHRANKARI

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Ottawa, Ontario, on November 28, 2024.

Judgment delivered at Ottawa, Ontario, on November 29, 2024.

REASONS FOR JUDGMENT BY:

GLEASON J.A.

CONCURRED IN BY:

**LOCKE J.A.
HECKMAN J.A.**

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REASONS FOR JUDGMENT

GLEASON J.A.

[1] The appellant has brought a motion to file fresh evidence and an appeal of the judgement of the Federal Court in file T-1225-20, rendered on May 17, 2022 (*per* St-Louis, J.), in which the Federal Court dismissed the appellant's application for judicial review.

[2] In that application, the appellant sought an order in the nature of *mandamus*, requiring the Correctional Service of Canada (CSC) to give him access to information he had requested

pursuant to the *Privacy Act*, R.S.C. 1985, c. P-21. The Federal Court found that the appellant's judicial review application was moot and declined to exercise its discretion to hear the application. The Federal Court also awarded costs to the respondent in paragraph 2 of its judgment, even though the respondent had not sought costs.

[3] During the hearing before this Court, the panel ruled on the appellant's motion to admit fresh evidence and dismissed that motion because the evidence sought to be tendered is an inadmissible settlement offer made by the respondent. That ruling has been reduced to writing in the judgment that accompanies these reasons.

[4] During the hearing before this Court, the panel reserved its decision on the merits of the appeal. These reasons address the merits of the appeal.

[5] From the appellant's memorandum of fact and law, it is unclear whether he seeks to set aside only the Federal Court's costs award or whether he also seeks to set aside the Federal Court's dismissal of his application for judicial review for relief in the nature of *mandamus*.

[6] Assuming, without deciding, that an appeal from the portion of the Federal Court's judgment in paragraph 1 dismissing the appellant's application for judicial review for relief in the nature of *mandamus* is properly before this Court, I see no basis to interfere with this portion of the Federal Court's judgment.

[7] The Federal Court's dismissal of the appellant's application may only be set aside if it discloses a palpable and overriding error as the Federal Court applied the correct law to the mootness issue.

[8] The record before us discloses no palpable and overriding error in the Federal Court's conclusion that the appellant's application had been rendered moot by CSC's disclosure of documents to him. The appellant contends that materials were missing from the disclosure and that it improperly contained documents that had not been translated from French. There is nothing in the record that establishes that documents were missing from the materials disclosed by CSC. As for the translation issue, that matter is the subject of a subsequent request to the Privacy Commissioner and of another judicial review application by the appellant that is pending before the Federal Court in another file. There is accordingly no basis to interfere with paragraph 1 of the Federal Court's judgment.

[9] The same cannot be said of paragraph 2 of the judgment. The respondent concedes that the Federal Court made a reviewable error in awarding it costs when none were sought by the respondent. Despite this, the respondent contends that this Court should refrain from correcting the error because the respondent has told the appellant that it will not seek to enforce the costs award.

[10] I disagree that such advice forecloses this Court from exercising its jurisdiction to award the usual remedy of correcting an error made by the Court below. I would accordingly grant the

appeal in part and would set aside the Federal Court's award of costs, contained in paragraph 2 of its judgment.

[11] In the circumstances, I would make no order on costs before this Court in respect of this appeal or the appellant's motion.

“Mary J.L. Gleason”

J.A.

“I agree.

George R. Locke J.A.”

“I agree.

Gerald Heckman J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-130-22

STYLE OF CAUSE: ALLEN TEHRANKARI v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: NOVEMBER 28, 2024

REASONS FOR JUDGMENT BY: GLEASON J.A.

CONCURRED IN BY: LOCK J.A.
HECKMAN J.A.

DATED: NOVEMBER 29, 2024

APPEARANCES:

Allen Tehrankari SELF-REPRESENTED

Mathieu Laliberté FOR THE RESPONDENT

SOLICITORS OF RECORD:

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Deputy Attorney General of Canada