

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20250121**

**Docket: A-72-23**

**Citation: 2025 FCA 16**

**CORAM: WOODS J.A.  
LEBLANC J.A.  
MONAGHAN J.A.**

**BETWEEN:**

**JEAN-KYLE BIENVENU**

**Appellant**

**and**

**THE ATTORNEY GENERAL OF CANADA**

**Respondent**

Heard at Vancouver, British Columbia, on January 21, 2025.  
Judgment delivered from the Bench at Vancouver, British Columbia, on January 21, 2025.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**MONAGHAN J.A.**

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20250121**

**Docket: A-72-23**

**Citation: 2025 FCA 16**

**CORAM: WOODS J.A.  
LEBLANC J.A.  
MONAGHAN J.A.**

**BETWEEN:**

**JEAN-KYLE BIENVENU**

**Appellant**

**and**

**THE ATTORNEY GENERAL OF CANADA**

**Respondent**

**REASONS FOR JUDGMENT OF THE COURT**

**(Delivered from the Bench at Vancouver, British Columbia, on January 21, 2025).**

**MONAGHAN J.A.**

[1] Jean-Kyle Bienvenu is a veteran of the Canadian Armed Forces who served as a member of the reserve force. In April 2018, Mr. Bienvenu applied for an education and training benefit under the *Veterans Well-being Act*, S.C. 2005, c. 21. A veteran who has served a total of at least six years in the regular force, the reserve force or both may apply for the benefit: *Veterans Well-being Act*, s. 5.2(1)(a).

[2] Unlike the military service of regular members, the service of reservists is not continuous and is often part-time. The *Veterans Well-being Act* authorizes the Governor in Council to make regulations “prescribing how the length of service in the reserve force is to be determined” for the purposes of the six-year service requirement: *Veterans Well-being Act*, s. 5.93(a).

[3] Section 5.01 of the *Veterans Well-being Regulations*, S.O.R./2006-50 (*Regulations*) is the relevant regulation. In effect, it provides a method for calculating a reservist’s length of service based on their days of service for which pay was authorized, subject to certain adjustments.

[4] Applying that method, Mr. Bienvenu had 1,494 days of eligible service. However, Veterans Affairs determined that six years required 2,191 days of service. Accordingly, Veterans Affairs denied Mr. Bienvenu’s application for the education and training benefit.

[5] Mr. Bienvenu did not dispute the calculation. Rather, he brought an application before the Federal Court challenging section 5.01 of the *Regulations*, seeking a declaration it is invalid and *ultra vires* the *Veterans Well-being Act*. In particular, Mr. Bienvenu asserted that in making the regulation the Governor in Council exceeded the power Parliament delegated to it in the *Veterans Well-being Act* by not having regard to the purpose of that Act.

[6] The Federal Court dismissed the application (2023 FC 175, *per* Sadrehashemi J). Mr. Bienvenu now appeals that decision.

[7] On this appeal, we must ask ourselves whether, in reviewing the Governor in Council's decision to make section 5.01, the Federal Court correctly chose the standard of review and correctly applied it: *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at paras. 45-47; *Mason v. Canada (Citizenship and Immigration)*, 2023 SCC 21 at para. 36. In responding to these questions, we owe no deference to the Federal Court and conduct our own review.

[8] We agree with the parties that the Federal Court correctly chose reasonableness as the standard for reviewing the *vires* of the regulation: *Auer v. Auer*, 2024 SCC 36 at paras. 3, 27, 44 (*Auer*).

[9] We also conclude that the Governor in Council's decision to make section 5.01 of the *Regulations* was reasonable. We come to that conclusion substantially for the reasons of the Federal Court.

[10] At the hearing before us, Mr. Bienvenu's counsel argued there were inadequate reasons for the choice made to compute length of service for reservists. We do not accept that decision was unreasonable simply because the Governor in Council did not explain why its choice showed "just and due appreciation for the veterans' service to Canada" in the context of members of the reserve force: *Auer* at paras. 52-54.

[11] Accordingly, we will dismiss the appeal. As neither party sought costs, we will award none.

"K.A. Siobhan Monaghan"

---

J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

<b>DOCKET:</b>	A-72-23
<b>STYLE OF CAUSE:</b>	JEAN-KYLE BIENVENU v. THE ATTORNEY GENERAL OF CANADA
<b>PLACE OF HEARING:</b>	VANCOUVER, BRITISH COLUMBIA
<b>DATE OF HEARING:</b>	JANUARY 21, 2025
<b>REASONS FOR JUDGMENT OF THE COURT BY:</b>	WOODS J.A. LEBLANC J.A. MONAGHAN J.A.
<b>DELIVERED FROM THE BENCH BY:</b>	MONAGHAN J.A.

**APPEARANCES:**

Ravi Hira K.C. Robin Hira	FOR THE APPELLANT
Alicia Blimkie Jan Verspoor	FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Hira Rowan LLP Vancouver, British Columbia	FOR THE APPELLANT
Shalene Curtis-Micallef Deputy Attorney General of Canada	FOR THE RESPONDENT