

Federal Court of Appeal



Cour d'appel fédérale

Date: 20250408

Docket: A-319-23

Citation: 2025 FCA 79

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

BETWEEN:

DAVID J. YABLECKI

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Dealt with in writing without appearance of parties.

Judgment delivered at Ottawa, Ontario, on April 8, 2025.

**REASONS FOR JUDGMENT BY:
CONCURRED IN BY:**

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

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REASONS FOR JUDGMENT

LOCKE J.A.

[1] These reasons follow the parties' agreement that the present appeal be decided on the basis of the written submissions and without an oral hearing.

[2] On October 26, 2022, David Yablecki filed an application for judicial review of two decisions by the Canada Revenue Agency finding him ineligible for the Canada Recovery Benefit and the Canada Emergency Response Benefit. The application for judicial review was

summarily dismissed by the Federal Court on October 27, 2023 citing Mr. Yablecki's repeated failures to meet deadlines set either by the *Federal Courts Rules*, S.O.R./98-106 (the Rules), or by Court Order. I agree generally with the description of events provided by the respondent in paragraphs 4 to 15 of his memorandum of fact and law. This includes extensions granted on July 24, 2023 and August 23, 2023 of previous deadlines that Mr. Yablecki had missed.

[3] Mr. Yablecki appeals the dismissal of his application for judicial review to this Court. He argues, as he did before the Federal Court, that representatives of the Court Registry failed to inform him of deadlines for steps to be taken in his application, and of requirements for affidavit evidence. I agree with the Federal Court that the Rules "provide answers to just about all the practical questions that arise in proceedings in the Federal Courts": see *Bernard v. Canada (Revenue Agency)*, 2015 FCA 263, 479 N.R. 189 at para. 41. I also agree with the Federal Court that, while "[s]elf-represented litigants deserve latitude to the extent necessary to ensure that they have the opportunity to advance their case", Mr. Yablecki was given ample opportunity to obtain legal advice and to comply with the Rules. If he was unaware of deadlines and the requirements of the Rules when he commenced the application for judicial review, he was clearly put on notice by the status review, and the July 24, 2023 Order that arose from it, of the upcoming steps in the proceeding and the related deadlines. Moreover, Mr. Yablecki was alerted on August 23, 2023 that the documents he submitted as affidavit evidence were non-compliant. Yet, despite being given an explanation as to why the original documents were non-compliant, and being allowed additional time to file compliant documents, he failed to do so.

[4] The Federal Court's dismissal of Mr. Yablecki's application for judicial review was a discretionary decision. This Court will intervene in such a decision only if the Federal Court has made an error of law, or a palpable and overriding error on a question of fact or of mixed fact and law from which no error of law is extricable: see *Hospira Healthcare Corporation v. Kennedy Institute of Rheumatology*, 2016 FCA 215, 402 D.L.R. (4th) 497 at paras. 28, 71-72; *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235 at paras. 8, 10, 36. A palpable error is one that is obvious. An overriding error is one that goes to the very core of the outcome of the case.

[5] Having carefully considered Mr. Yablecki's submissions, I see no reviewable error by the Federal Court in this case. Accordingly, I would dismiss this appeal with costs in the all-inclusive amount of \$300.

"George R. Locke"

J.A.

"I agree.

Anne L. Mactavish J.A."

"I agree.

Gerald Heckman J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:

A-319-23

STYLE OF CAUSE:

DAVID J. YABLECKI v.
ATTORNEY GENERAL OF
CANADA

DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR JUDGMENT BY:

LOCKE J.A.

DATED:

APRIL 8, 2025

CONCURRED IN BY:

MACTAVISH J.A.
HECKMAN J.A.

WRITTEN REPRESENTATIONS BY:

David J. Yablecki

FOR THE APPELLANT

Daniel Cortes-Blanquicet

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Shalene Curtis-Micallef
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FOR THE RESPONDENT