

Date: 20130625

Docket: A-485-12

Citation: 2013 FCA 182

**CORAM: SHARLOW J.A.
DAWSON J.A.
STRATAS J.A.**

BETWEEN:

CLAIR DANIEL WILSON

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Halifax, Nova Scotia, on June 24, 2013.

Judgment delivered at Halifax, Nova Scotia, on June 25, 2013.

REASONS FOR JUDGMENT BY:

STRATAS J.A.

CONCURRED IN BY:

**SHARLOW J.A.
DAWSON J.A.**

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REASONS FOR JUDGMENT

STRATAS J.A.

[1] Mr. Wilson appeals from the judgment dated October 19, 2012 of the Federal Court (*per* Justice Zinn): 2012 FC 1226.

[2] Mr. Wilson is an inmate at Springhill Penitentiary in Nova Scotia. His New Brunswick driver's licence expired on April 29, 2011. In order to renew it before it expired, he needed to attend personally at the motor licensing bureau in New Brunswick. To that end, he sought an escorted

temporary absence from the Penitentiary. The Warden denied the request on the sole basis that Mr. Wilson's licence could not be automatically renewed.

[3] Mr. Wilson grieved the Warden's decision. His grievance was handled as a second level grievance and was dismissed, but a third level review before the Senior Deputy Commissioner succeeded. The Senior Deputy Commissioner held that the Warden failed to consider and apply properly subsection 17(1) of the *Corrections and Conditional Release Act*, S.C. 1992, c. 20 and failed to provide sufficient reasons for his decision. The Senior Deputy Commissioner required the Warden to review his earlier decision and provide a rationale for it. By that time, the deadline for Mr. Wilson's licence renewal had passed, rendering the substantive matter moot. The Warden reviewed the matter, again denying the request for an escorted temporary absence permit, this time with reasons focused on public interest considerations.

[4] It would have been preferable for the Senior Deputy Commissioner to have recognized the mootness of the substantive matter and let the matter end there. By requiring the Warden to review this earlier decision, the grievance process was unnecessarily prolonged and resulted in no benefit to the grievor. It also exposed him to the risk of needless and prejudicial commentary, a risk that materialized.

[5] Before the Federal Court, Mr. Wilson challenged the reasonableness of the remedy ordered by the Senior Deputy Commissioner. The Federal Court dismissed the application for judicial review.

[6] On appeal to this Court, Mr. Wilson again challenges the reasonableness of the remedy. In his memorandum of fact and law, he disagrees with certain reasons given by the Federal Court in support of the reasonableness of the remedy. As he did in the Federal Court, he expresses frustration with the delays on the part of the Penitentiary in the decision-making and grievance process, delays he says were calculated to thwart the renewal of his driver's licence.

[7] In my view, there are no grounds upon which to set aside the judgment of the Federal Court. As a judicial review court, the Federal Court was to select a standard of review. It selected reasonableness as the standard of review. In engaging in reasonableness review – in law, a deferential review – it was not open to the Federal Court to second-guess the Senior Deputy Commissioner, fashion its own remedy, and impose it over that chosen by the Senior Deputy Commissioner.

[8] The Federal Court correctly chose reasonableness as the standard of review and I am unable to discern any error in the application of that standard by the Federal Court that would warrant intervention by this Court.

[9] Before the Federal Court and this Court, Mr. Wilson asked that his application be converted to an action so that he could pursue rights to compensation. Nothing in the record before this Court establishes that Mr. Wilson has a claim for any compensation necessitating the conversion of this application into an action.

[10] The Federal Court did not award the respondent its costs owing to the “troubling” delays on the part of the Penitentiary in handling this issue. The respondent conceded this was the appropriate disposition in this Court.

[11] Therefore, I would dismiss the appeal without costs.

"David Stratas"

J.A.

“I agree.

K. Sharlow J.A.”

“I agree.

Eleanor R. Dawson J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-485-12

**APPEAL FROM A JUDGMENT OF THE HONOURABLE MR. JUSTICE ZINN DATED
OCTOBER 19, 2012, DOCKET NO. T-484-12**

STYLE OF CAUSE: Clair Daniel Wilson v. Attorney
General of Canada

PLACE OF HEARING: Halifax, Nova Scotia

DATE OF HEARING: June 24, 2013

REASONS FOR JUDGMENT BY: Stratas J.A.

CONCURRED IN BY: Sharlow J.A.
Dawson J.A.

DATED: June 25, 2013

APPEARANCES:

Clair Daniel Wilson

ON HIS OWN BEHALF

Sarah Drodge

FOR THE RESPONDENT

SOLICITORS OF RECORD:

William F. Pentney
Deputy Attorney General of Canada

FOR THE RESPONDENT