

NOVA SCOTIA COURT OF APPEAL

Citation: *Halifax (Regional Municipality) v. Ofume*, 2003 NSCA 78

Date: 20030722

Docket: CA 195552

Registry: Halifax

Between:

Halifax Regional Municipality

Appellant

v.

Maureen Ofume

Applicant/Respondent

Judge: Cromwell, J.A. (in Chambers)

Application Heard: July 17, 2003, in Halifax, Nova Scotia

Decision Delivered: July 22, 2003

Counsel: Dr. Phillip Ofume, for the applicant/respondent
Matthew Williams, for the appellant

Decision: (in Chambers)

[1] Maureen Ofume is the respondent on a appeal from an interlocutory order of MacAdam, J. which dismissed an application by the Municipality to prevent Dr. Ofume from acting on his wife's behalf in this proceeding. She applies to me for permission to file a supplementary appeal book which was rejected for filing by the Registrar of this Court. The rejection was proper because there is no provision in the **Civil Procedure Rules** for this filing absent agreement of the parties or the order of a judge.

[2] The proposed supplementary appeal book duplicates much of what is in the appeal book filed by the appellant. In addition, it contains the briefs filed before the Chambers judge in the Supreme Court, an amended statement of claim delivered after the decision under appeal and correspondence preliminary to the appearance before the Chambers judge in the Supreme Court.

[3] Aside from the briefs filed in the Supreme Court, I am not convinced of the relevance of any of the other material contained in the proposed supplementary appeal book. However, given that the appeal is set to be heard on September 25, 2003, that the respondent's factum has been prepared and filed on the assumption that the supplementary appeal book would be accepted for filing, that the appellant does not object to some of the documents being placed before the Court and objects to the others solely on the ground of relevance rather than prejudice, I think it best to order that the proposed supplementary appeal book be placed on the file and leave it to the panel who will be hearing the appeal whether Dr. Ofume will be given leave to refer to any of the material in it. A copy of my order shall be affixed to each copy of the supplementary appeal book placed in the file.

[4] Dr. Ofume also raised concerns about the accuracy of the transcript of proceedings leading to the order under appeal. No specifics were given. Counsel for the appellant agreed to provide the respondent with a copy of the tape of that hearing for review and I make no further order in relation to that matter.

[5] The costs of this application fixed at \$500 shall be costs in the cause of the appeal.

Cromwell, J.A.