

NOVA SCOTIA COURT OF APPEAL

Citation: *Blais v. Canada (Attorney General)*, 2012 NSCA 109

Date: 20121011

Docket: CA 373199

Registry: Halifax

Between:

Michel Joseph Blais

Appellant

v.

Attorney General of Canada

Respondent

Judges: Hamilton, Beveridge and Bryson, JJ.A.

Appeal Heard: September 26, 2012, in Halifax, Nova Scotia

Held: Appeal is dismissed per reasons for judgment of the Court.

Counsel: Appellant, in person
Sandra Doucette, for the respondent

Reasons for judgment:

[1] Mr. Blais was an inmate in the federal penitentiary system. He brought an application for *habeas corpus* because his day parole had been revoked. The application was heard by the Honourable Justice Cindy Bourgeois. The respondent, Attorney General of Canada, persuaded Justice Bourgeois that the Nova Scotia Supreme Court should decline its jurisdiction to hear the application. Her reasons are reported as 2011 NSSC 508.

[2] Mr. Blais had appealed the denial of his day parole to the Appeal Division of the National Parole Board, and then filed an application for judicial review in the Federal Court. The application to the Federal Court raised the same concerns about lack of disclosure and denial of due process set out in his application for *habeas corpus*.

[3] The appellant says Justice Bourgeois was wrong to decline jurisdiction to hear his *habeas corpus* application. The principles governing the exercise of a court's *habeas corpus* jurisdiction are authoritatively set out in the decision of the Supreme Court of Canada in *May v. Ferndale Institution*, 2005 SCC 82. Applications for *habeas corpus* based on complaints about denial or revocation of parole have consistently been viewed as being properly dealt with in the processes set out in the *Corrections and Conditional Release Act*, S.C. 1992, c. 20, with eventual recourse to the Federal Court of Canada by way of judicial review. As a consequence, requests to challenge restrictions on the liberty of inmates triggered by parole decisions fall within the admonition set out in *May v. Ferndale* that *habeas corpus* jurisdiction should be declined if there is in place a complete, comprehensive and expert procedure for review of an administrative decision (para. 44).

[4] Appellate courts throughout Canada have consistently taken the view that the processes in the *Corrections and Conditional Release Act* meet that criteria, including this Court in *Canada (National Parole Board) v. Finck*, 2008 NSCA 56. See also: *Armaly v. Canada (Parole Services)*, 2001 ABCA 280; *Lord v. Coulter*, 2009 BCCA 62; *R. v. Latham*, 2009 SKCA 26; *John v. Canada (National Parole Board)*, 2011 BCCA 188, leave to appeal refused, [2011] S.C.C.A. No. 256; *R. v. Graham*, 2011 ONCA 138.

[5] The appellant relies heavily on the decision of the British Columbia Supreme Court in *Woodhouse v. Canada (Correctional Service)*, 2010 BCSC 754 in his complaint of error to this Court. In that case, *habeas corpus* relief was granted by the motions judge for deprivation of liberty due to a parole decision. The appellant had also relied on this case before Justice Bourgeois. She declined to follow it. Instead she preferred the reasoning of the Ontario Court of Appeal in *R. v. Graham*, *supra*. She committed no error in her approach. The British Columbia Court of Appeal has since found that the motions judge in *Woodhouse* erred in law in deciding to exercise the court's *habeas corpus* jurisdiction (2012 BCCA 45).

[6] Mr. Blais has since been released from custody. Hence, the appeal is arguably moot. Nonetheless, we have thoroughly reviewed the decision of Justice Bourgeois and all of the materials filed by the appellant and respondent. We are unanimously of the view that she committed no error in her articulation and application of the governing principles that are to guide a superior court in deciding if it should exercise its jurisdiction to hear an application for a writ of *habeas corpus*. Accordingly, the appeal is dismissed. No order as to costs was requested. None are ordered.

Per Curiam

Hamilton, J.A.

Beveridge, J.A.

Bryson, J.A.