

Federal Court



Cour fédérale

Date: 20180828

Docket: T-1654-17

Citation: 2018 FC 867

Ottawa, Ontario, August 28, 2018

PRESENT: The Honourable Mr. Justice Brown

BETWEEN:

ARTHUR JACKES

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

JUDGMENT

UPON motion by counsel for the Defendant in writing pursuant to the provisions of Rule 369 of the *Federal Courts Rules*, SOR/98-106 for an order striking this proceeding without leave to amend, together with costs or such further and other relief as may seem just;

AND UPON reading the pleadings and proceedings herein including the memorandum of argument filed by the Defendant and written correspondence received from the Plaintiff;

AND CONSIDERING that the Plaintiff seeks a declaration that “by rejecting the originality of signatures in black ink and suggesting a new application be signed in blue ink when Licensed Producer Security Clearance applicants are prohibited from using blue ink is an unconstitutional violation of the patient's S. 7 Right to Life”;

AND CONSIDERING the Plaintiff only alleges, which allegations must be accepted as true, that he applied to register for personal use or designated production under the *Access to Cannabis for Medical Purposes Regulations*, SOR/2016-230 [ACMPR], which application was returned to him because the signature was deemed not to be original, that thereafter the Plaintiff was informed that submission of a new application would result in the application being treated at a higher priority and that it was recommended to him that he use a blue ball-point pen when filling out the application to minimize disagreement as to the veracity of the signatures, but that the instructions for completing the relevant Health Canada form made it mandatory to complete the form in black ink, not blue ink;

AND CONSIDERING that section 7 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK), 1982*, c 11 *Charter* “does not protect against insignificant or ‘trivial’ limitations of rights” per *Cunningham v Canada*, [1993] 2 SCR 143 at 151, recently applied by this Court in *Johnson v Canada (AG)*, 2018 FC 582 at para 37;

AND BEING OF THE VIEW that the recommendation made to the Plaintiff that he use a blue ball-point pen was, in the first place, only a suggestion and not a requirement, and that it is

plain and obvious this suggestion did not constitute a violation of *Charter*-protected rights, and if it did, such violation would be trivial such that it is plain and obvious that the Plaintiff has no chance of success;

AND UPON considering that as a consequence this action should therefore be dismissed;

AND ALSO BEING OF THE VIEW that no purpose would be served in granting leave to amend a pleading such as this;

THEREFORE THE JUDGMENT OF THE COURT is that:

1. This action is dismissed without leave to amend.
2. There is no order as to costs.

"Henry S. Brown"

Judge