

Federal Court



Cour fédérale

Date: 20091030

Docket: T-1191-07

Citation: 2009 FC 1116

Ottawa, Ontario, October 30, 2009

PRESENT: The Honourable Mr. Justice Barnes

BETWEEN:

**LEAGUE FOR HUMAN RIGHTS OF
B'NAI BRITH CANADA**

Applicant

and

**HER MAJESTY THE QUEEN,
THE ATTORNEY GENERAL OF CANADA
and VLADIMIR KATRIUK**

Respondents

REASONS FOR ORDER AND ORDER

[1] The Applicant, League For Human Rights Of B'nai Brith Canada, has brought a motion under Rule 397 of the *Federal Courts Rules*, (SOR/98-106) asking the Court to reconsider the Order previously made in this proceeding. The argument for reconsideration is based on the assertion that the Court erred by dismissing this proceeding for the same reasons which were given in the companion proceeding involving Mr. Wasyl Odynsky (see *League for Human Rights of B'nai Brith Canada v. Canada*, 2009 FC 647, [2009] F.C.J. No. 689, Docket T-1162-07). The Applicant

contends that on the issue of the reasonableness of the Governor in Council's (GIC) decision dated May 17, 2007 the evidence in the two proceedings was different and it, therefore, required separate assessment.

[2] It is noteworthy that in its written and oral submissions to the Court, the Applicant failed to identify any evidence in the record to distinguish Mr. Katriuk's case from that of Mr. Odynsky. Indeed, the only submission made by the Applicant in this proceeding was to the effect that it was relying on the arguments advanced in the Odynsky proceeding.

[3] The Crown takes the position, with some justification, that the purpose of Rule 397 is abused when a party claims that a matter it never directly raised in argument was nevertheless overlooked by the Court. The Applicant says in response that its failure to make specific reference to the facts of Mr. Katriuk's case was deliberate and that "the purpose of the rule is to correct the oversight on the part of the Court, not an oversight on the part of a party".

[4] In the end, however, the Applicant's argument is unmeritorious. The GIC had ample evidence before it to justify its disposition of this case just as it did in the case of Mr. Odynsky. I can find nothing in this record which, for the purpose of assessing the reasonableness of the GIC's decision, takes Mr. Katriuk's situation outside of the conclusion stated in the Odynsky decision, that is to say that "it was reasonably open to the GIC on this record to have rejected the Minister's recommendation for revocation of citizenship and the League For Human Rights Of B'nai Brith Canada has not made a convincing case to the contrary".

[5] In the result, this motion is dismissed.

JUDGMENT

THIS COURT ORDERS that this motion is dismissed.

“ R. L. Barnes ”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-1191-07

STYLE OF CAUSE: League For Human Rights Of B'nai Brith Canada
v.
HMTQ et al.

MOTION IN WRITING

PLACE OF HEARING: Ottawa, ON

**REASONS FOR ORDER
AND ORDER BY:** Mr. Justice Barnes

DATED: October 30, 2009

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