

Federal Court of Appeal



Cour d'appel fédérale

Date: 20151027

Docket: A-555-14

Citation: 2015 FCA 229

**CORAM: DAWSON J.A.
STRATAS J.A.
DE MONTIGNY J.A.**

BETWEEN:

MARY PAUL

Appellant

and

**HER MAJESTY THE QUEEN IN RIGHT OF
CANADA**

Respondent

Heard at Toronto, Ontario, on October 27, 2015.

Judgment delivered from the Bench at Toronto, Ontario, on October 27, 2015.

REASONS FOR JUDGMENT OF THE COURT BY:

DAWSON J.A.

Federal Court of Appeal



Cour d'appel fédérale

Date: 20151027

Docket: A-555-14

Citation: 2015 FCA 229

**CORAM: DAWSON J.A.
STRATAS J.A.
DE MONTIGNY J.A.**

BETWEEN:

MARY PAUL

Appellant

and

**HER MAJESTY THE QUEEN IN RIGHT OF
CANADA**

Respondent

REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Toronto, Ontario, on October 27, 2015).

DAWSON J.A.

[1] The appellant issued a statement of claim in the Federal Court seeking a declaration that the respondent “has a moral and/or other duty to ensure that the [appellant’s] Petition to the Inter-American Commission on Human Rights is dealt with in a timely fashion”. A Judge of the

Federal Court ordered that the statement of claim be struck out without leave to amend (Order dated November 27, 2014 in Court File T-1670-14). This is an appeal from that order.

[2] We all agree that this appeal must be dismissed for the following reasons.

[3] First, declarations may issue only in respect of legal rights; a declaration cannot issue in respect of a non-legal, moral obligation. The statement of claim does not assert any legal basis which would oblige the respondent to take steps on the appellant's behalf before the Commission. It is insufficient to make a bare assertion that Canada is obliged to assist the appellant by virtue of being a signatory to the American Convention on Human Rights.

[4] Second, proceedings before the Commission are adversarial in nature. The appellant's petition identified Canada as the "Government accused of violation". In this circumstance the respondent cannot be under any fiduciary or other duty to intervene on the appellant's behalf before the Commission.

[5] For these reasons, the appeal will be dismissed with costs fixed in the amount of \$500.00.

"Eleanor R. Dawson"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-555-14

STYLE OF CAUSE: MARY PAUL v. HER MAJESTY
THE QUEEN IN RIGHT OF
CANADA

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: OCTOBER 27, 2015

REASONS FOR JUDGMENT OF THE COURT BY: DAWSON J.A.
STRATAS J.A.
DE MONTIGNY J.A.

DELIVERED FROM THE BENCH BY: DAWSON J.A.

APPEARANCES:

Abba Chima FOR THE APPELLANT

Laura Tausky FOR THE RESPONDENT

SOLICITORS OF RECORD:

Barrister & Solicitor FOR THE APPELLANT
Toronto, Ontario

William F. Pentney FOR THE RESPONDENT
Deputy Attorney General of Canada