

Federal Court



Cour fédérale

Date: 20210604

Docket: T-1565-20

Citation: 2021 FC 546

Ottawa, Ontario, June 4, 2021

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

GHANI OSMAN

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] Mr. Osman asks the Court to review and set aside the final level response to his defamation grievance.

[2] At the hearing of this application, I noted that I was unable to find Mr. Osman's email dated November 27, 2020, headed "Final Submissions to the Defamation Grievance" in the certified tribal record or the nine PDF attachments it indicates were attached to it.

[3] Counsel for the Respondent conceded that the email was not included in the certified tribunal record, but suggested that all or many of the nine attachments could be found elsewhere in the record. He further submitted that the email itself added nothing to the matter before the decision-maker. When the Court suggested that this was a matter of natural justice and procedural fairness, he submitted that grievances are entitled to such protections at the low end of the scale discussed in *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817.

[4] Even accepting that Mr. Osman, as the grievor, was entitled to procedural fairness at the low end of the range, I cannot agree that the fairness that he was entitled to excludes the decision-maker being apprised of and considering his final submissions on the matter. The observation of Justice Boswell in *Togtokh v Canada (Minister of Citizenship and Immigration)*, 2018 FC 581, at paragraph 21, are applicable: “[I]n this case, it is not clear whether the missing ... Submissions would have had a determinative effect upon the decision under review, and it is not for this Court to determine whether they would have altered the outcome ...”.

[5] Moreover, it is not the job of this Court to piece together the documents attached to that submission to see if they are or are not included in the certified tribunal record.

[6] The parties were informed that this application would be allowed, with costs. Mr. Osman represented himself, but informed the Court that he had sought legal advice and had incurred expenses in this proceeding. He requested that cost be fixed at \$1,000.00, which the Court finds to be a reasonable and acceptable sum.

JUDGMENT IN T-1565-20

THIS COURT'S JUDGMENT is that the application is allowed, the decision under review is set aside, the matter is to be referred to a different decision-maker, if possible, and Mr. Osman is entitled to his costs, fixed at \$1,000.00

"Russel W. Zinn"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1565-20

STYLE OF CAUSE: GHANI OSMAN v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: JUNE 2, 2021

JUDGMENT AND REASONS: ZINN J.

DATED: JUNE 4, 2021

APPEARANCES:

Ghani Osman

APPLICANT
ON HIS OWN BEHALF

Adam C. Feldman

FOR THE RESPONDENT

SOLICITORS OF RECORD:

- Nil -

SELF-REPRESENTED APPLICANT

Attorney General of Canada
Department of Justice Canada
Ottawa, Ontario

FOR THE RESPONDENT