

Federal Court



Cour fédérale

Date: 20251105

Docket: T-1113-23

Citation: 2025 FC 1781

Toronto, Ontario, November 5, 2025

PRESENT: Mr. Justice Gascon

BETWEEN:

MD. GOLAM SARWAR MEHEDI

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

ORDER AND REASONS

I. Overview

[1] On October 7, 2025, the Applicant, Md. Golam Sarwar Mehedi, filed a motion pursuant to subsection 51(1) of the *Federal Courts Rules*, SOR/98-106 [Rules] to set aside an order issued by Associate Judge John C. Cotter on October 1, 2025 [Order]. In the Order, Associate Judge Cotter dismissed Mr. Mehedi's application for judicial review on a status review pursuant to Rule 382.1.

[2] For the following reasons, Mr. Mehedi's motion to appeal the Order will be dismissed. While Mr. Mehedi obviously disagrees with the Order, he neither alleges nor identifies any error committed by Associate Judge Cotter in his motion materials. Moreover, in his oral argument before the Court, Mr. Mehedi has also failed to single out any reviewable error in the Order, limiting his observations to bald and conclusory allegations.

[3] In applying the standard of review set out in *Hospira Healthcare Corporation v Kennedy Institute of Rheumatology*, 2016 FCA 215 [*Hospira*], I find that Associate Judge Cotter made no palpable and overriding error and applied the law correctly in issuing the Order and that there is no basis whatsoever for this Court to intervene and set it aside. In other words, Mr. Mehedi has failed to meet his burden on this motion and appeal.

II. Factual context

A. *Background*

[4] On May 29, 2023, Mr. Mehedi filed an application for judicial review of a redetermination decision of the Canada Revenue Agency [CRA] with respect to certain Canada Emergency Response Benefit [CERB] payments he received. In brief, CRA concluded that Mr. Mehedi was required to repay \$2,500 of the CERB payments because he had also received benefits from Service Canada for the same weeks and was not entitled to both.

[5] On August 29, 2023, Associate Judge Trent Horne dismissed Mr. Mehedi's motion for leave to file an additional affidavit (Rule 312) and for summary judgment (Rules 213–219) but

granted him an extension of time to file his applicant's record (Rule 309). The deadline for Mr. Mehedi to serve and file his applicant's record was September 28, 2023. No costs were awarded, and Associate Judge Horne's order was not appealed.

[6] It appears that Mr. Mehedi tried to submit an applicant's record on September 5 and 7, 2023, but that it was rejected by the Court Registry because it did not comply with the Rules. In the end, Mr. Mehedi did not file a revised or corrected applicant's record before the September 28, 2023 deadline. Neither did he seek to have an extension of that deadline. Mr. Mehedi rather filed a second motion for leave to file an additional affidavit, for summary judgment, and for costs.

[7] On April 15, 2024, Associate Judge Michael D. Crinson dismissed Mr. Mehedi's new motion in its entirety on the basis that it was an abuse of process and an attempt to re-litigate already decided issues. In his decision, Associate Judge Crinson noted that he was ruling on "an almost identical motion on an almost identical record" (para 1) as Associate Judge Horne and that "[i]t would be condoning an abuse of process to allow the Applicant's motion seeking essentially the same relief on essentially the same record as was in the Prior Motion" (para 12). Associate Judge Crinson also noted that even if the Court had not found that it was an abuse of process, he would have refused Mr. Mehedi's second motion for the same reasons as Associate Judge Horne. The respondent, the Attorney General of Canada [AGC], was granted costs in the amount of \$1,190 on this motion.

[8] On April 25, 2024, Mr. Mehedi filed a third motion, seeking to set aside the order issued by Associate Judge Crinson pursuant to Rule 51. Once again, he sought an order for an extension

of time to file his applicant's record, for leave to file an additional affidavit, for summary judgment, and for costs.

[9] On February 11, 2025, Justice Paul Favel dismissed Mr. Mehedi's third motion in its entirety. The Court notably said it was not persuaded that it would be in the interests of justice to grant an extension of time to file the applicant's record as Mr. Mehedi "has not shown a continuing intention of proceeding with this application nor has [he] provided a reasonable explanation for the delay since Associate Judge Horne granted an extension." The AGC was again awarded costs, this time in the amount of \$300.

[10] On July 15, 2025, a notice of status review was issued to the parties given that 180 days had elapsed since the filing of Mr. Mehedi's notice of application and no requisition for a hearing date had been filed (Rule 380(2)). As usual, the notice of status review required Mr. Mehedi to justify his delay in moving his application forward and to propose a timetable for the completion of the remaining steps. Both Mr. Mehedi and the AGC provided written submissions (Rule 382).

B. *The Order under appeal*

[11] On October 1, 2025, Associate Judge Cotter issued the Order and dismissed Mr. Mehedi's application for judicial review for delay, indicating that this was "one of the exceptional cases where it is not in the interests of justice to permit the application to continue."

[12] In detailed and exhaustive reasons, the Court first started by laying out the applicable legal test regarding status review in an application, as provided by Rules 380(2), 383, and 382.1. It then summarized the case law on the matter, including when the applicant is self-represented — like Mr. Mehedi.

[13] After reviewing the circumstances of this case, including the previous orders issued by the Court, Associate Judge Cotter found that Mr. Mehedi did not provide a reasonable explanation for the delay. The Court acknowledged that the next step would be for Mr. Mehedi to serve and file an applicant's record, but that the matter of a possible extension of Associate Judge Horne's deadline had already been determined and dismissed by both Associate Judge Crinson and Justice Favel. This option was therefore no longer available to Mr. Mehedi. Moreover, Associate Judge Cotter found that the timetable proposed by Mr. Mehedi did not reflect the outstanding steps set out in Part 5 of the Rules.

[14] As such, the Court was not satisfied that Mr. Mehedi's application for judicial review should continue and dismissed it.

C. *The standard of review*

[15] The applicable standard of review on an appeal of a discretionary order of an associate judge under Rule 51 is set forth in *Hospira* at paragraphs 28, 65, 79, and 83. Such orders are to

be reviewed on the civil appellate standard set out by the Supreme Court of Canada in *Housen v Nikolaisen*, 2002 SCC 33, [2002] 2 SCR 235 [*Housen*].

[16] Pursuant to the *Housen* standard, questions of fact and mixed questions of fact and law are subject to the palpable and overriding error standard while questions of law, and mixed questions where there is an extricable question of law, are subject to the standard of correctness (*Curtis v Canada (Human Rights Commission)*, 2023 FCA 33 at para 4; *Sweet Productions Inc v Licensing LP International S.À.R.L.*, 2022 FCA 111 at para 21, reversed on other grounds by the Supreme Court, no 40354 (September 21, 2024); *Worldspan Marine Inc v Sargeant III*, 2021 FCA 130 at para 48; *Canada (Attorney General) v Iris Technologies Inc*, 2021 FCA 244 at para 33; *Hospira* at paras 64, 66; *Perron v Canada*, 2025 CanLII 100347 (FC) at para 17 [*Perron*]; *Carreau v Canada (Attorney General)*, 2025 FC 1318 at paras 47–48 [*Carreau*]; *Ge v Canada (National Revenue)*, 2025 FC 1205 at paras 15–16 [*Ge*]; *Stein v Canada*, 2023 FC 1178 at paras 11–13 [*Stein 2*]; *Lessard-Gauvin v Canada (Attorney General)*, 2020 FC 730 at paras 42–46 [*Lessard-Gauvin*]).

[17] An associate judge has a broad discretion as per Rules 382 and 382.1 (*Ge* at para 14; *Stein v Canada*, 2023 CanLII 52481 (FC) at para 24 [*Stein 1*], aff’d in *Stein 2*; *Suncor Energy Inc. v Canada-Newfoundland and Labrador Offshore Petroleum Board*, 2019 FC 927 at para 10; *Baroud v Canada*, 1998 CanLII 8819 (FC) at para 4 [*Baroud*]). An exercise of discretion by an associate judge involves applying legal standards to the facts as found and thus amounts to a question of mixed fact and law. Thus, absent an extricable question of law or legal principle, an associate judge’s exercise of discretion can only be set aside on the basis of a palpable and overriding error (*Perron* at para 18). The “palpable and overriding error” standard of review is

highly deferential and is a heavy burden for an applicant to meet (*Perron* at para 20; *Carreau* at para 48; *Ge* at para 16; *Lessard-Gauvin* at paras 43, 45–46).

III. Analysis

A. *The law applicable to a Rule 382.1(2) order*

[18] The applicable test to an order pursuant to Rule 382.1 is correctly set out by Associate Judge Cotter in the Order. Rule 382.1(2) provides as follows:

382.1 [...]

Review by the Court

(2) A judge or prothonotary shall conduct a status review and may

(a) if he or she is not satisfied that the proceeding should continue, dismiss the proceeding; or

(b) if he or she is satisfied that the proceeding should continue, order that it continue as a specially managed proceeding and may make an order under rule 385.

382.1 [...]

Examen de la Cour

(2) Un juge ou un protonotaire procède à l'examen de l'état de l'instance et peut :

a) s'il n'est pas convaincu que l'instance doit se poursuivre, la rejeter;

b) s'il est convaincu que l'instance doit se poursuivre, ordonner qu'elle se poursuive à titre d'instance à gestion spéciale et rendre toute ordonnance prévue à la règle 385.

[19] As such, on status review, the Court must be primarily concerned with two questions: (1) the reasons why the case has not moved forward faster and whether those reasons justify the

delay that has occurred; and (2) the steps the applicant or plaintiff proposes to move the matter forward (*Constant v Canada*, 2012 FCA 87 at para 16; *Winnipeg Enterprises Corporation v Fieldturf (IP) Inc*, 2007 FCA 95 at para 9 [WEC]; *Canada v Stoney Band*, 2005 FCA 15 at paras 34, 37 [*Stoney Band*]; *Stein 1* at para 22, aff'd in *Stein 2*; *Baroud* at para 4). Prejudice to the defendant should also be considered, even though it may have less weight in a notice of status review than if brought on a motion to dismiss for delay (WEC at para 9; *Stoney Band* at paras 36, 38). Given the draconian effect of dismissing a claim for delay, proceedings should only be dismissed on status review in exceptional circumstances, taking into account the overall interests of justice in the case (*Stein 1* at para 25, aff'd in *Stein 2*).

B. *There is no error in the Order*

[20] The onus on this motion and appeal was on Mr. Mehedi to identify a specific error in the Order that would require this Court to intervene (*Perron* at para 40; *Carreau* at para 101). He has not done so.

[21] In his materials, Mr. Mehedi states that he seeks to appeal Associate Judge Cotter's Order, an award of costs of \$300, as well as an award of damages in the amount of \$200,000 for "mental torturing, abuse of court process, wasted courts time, [his] time and respondent's time." In brief, Mr. Mehedi's appeal is an attempt to relitigate all the previous orders from Associate Judges Thorne, Crinson, and Cotter, and Justice Favel. He claims all the orders "have serious judicial error" and lists ten questions in his notice of motion. However, these questions all go to the merits of his application for judicial review and none are thus relevant to his appeal of the Order and his motion before the Court.

[22] During the hearing, when asked to identify an error in the Order, Mr. Mehedi submitted that Associate Judge Cotter wrongly stated the applicable test. However, Mr. Mehedi could not point the Court to any specific error nor to case law supporting his argument. In fact, Mr. Mehedi's claim is entirely without merit as Associate Judge Cotter correctly set out the test applicable to a Rule 382.1 order.

[23] In sum, Mr. Mehedi has not identified any error that would require this Court's intervention, either in his written representations or in his oral argument. He relies on general allegations of error in the notice of motion, but such bald allegations do not satisfy the requirement to particularize an actual asserted error (*Perron* at para 41). I could not phrase it better than Justice Benoit Duchesne in *Carreau* (see also *Perron* at para 40):

[104] An argument that the June 13 Order is an "error in totality" is a bald argument without meaningful content. A bald conclusive assertion without more detail is precisely the type of assertion that must be rejected in line with the law applicable to appeals. An alleged error that is not particularized with sufficient detail to allow the Court to determine whether an error was made is not sufficient on an appeal (*Eisbrenner v Canada*, 2020 FCA 93, at para 63). Asserting a general "error in totality" in an order appealed from does not provide the Court with a basis to intervene.

[24] Mr. Mehedi further submits that he has had a continuing intention to pursue his application for judicial review against CRA. However, Mr. Mehedi has not demonstrated how he has had such an intention since he filed his application for judicial review in May 2023, other than filing multiple motions on already decided issues. This is what led Justice Favel to find that Mr. Mehedi had not demonstrated a continuing intention to proceed with the application. And, in the Order, Associate Judge Cotter again determined that Mr. Mehedi did not provide a

reasonable explanation for the delay. He also ruled that the issue has been decided by Justice Favel — whose judgment was not appealed — and could not be revisited now. I cannot find any error in those conclusions.

[25] I further note that this is only one of the two questions the Court has to turn to while sitting on a status review — the other one being the steps the applicant proposes to move the matter forward. In the Order, Associate Judge Cotter found that Mr. Mehedi’s timetable was not compliant with the procedural requirements of the Rules. Mr. Mehedi did not challenge this finding which, in itself, is fatal to his appeal.

[26] Finally, I observe that all of Mr. Mehedi’s motions arise from the fact that his applicant’s record was not accepted by the Registry in early September 2023 for failure to comply with the Rules. However, as Justice Duchesne has previously explained, an applicant remains at all times responsible to ensure that the documents he presents for filing are compliant with the Rules and are validly presented and accepted for filing in a timely manner. The Rules provide that the Registry can refuse to accept a non-compliant document presented for filing by a litigant. And the fact that some litigants are self-represented does not absolve them from their failure to file their documents in a complete and timely manner (*Ge* at para 31).

[27] A palpable and overriding error is an error that is both obvious and apparent (*Madison Pacific Properties Inc v Canada*, 2019 FCA 19 at para 26, application for leave to the Supreme Court dismissed, no 38578 (July 11, 2019)). It is a “highly deferential standard” (*Figueroa v Canada (Public Safety and Emergency Preparedness)*, 2019 FCA 12 at para 3; *1395804 Ontario Ltd (Blacklock's Reporter) v Canada (Attorney General)*, 2017 FCA 185 at para 3; *NOV*

Downhole Eurasia Limited v TLL Oilfield Consulting Ltd, 2017 FCA 32 at para 7; *Revcon Oilfield Constructors Incorporated v Canada (National Revenue)*, 2017 FCA 22 at para 2; *Cobalt Pharmaceuticals Company v Bayer Inc*, 2015 FCA 116 at para 53). As Justice Stratas metaphorically stated in *Mahjoub v Canada (Citizenship and Immigration)*, 2017 FCA 157, application for leave to the Supreme Court dismissed, no 37793 (May 17, 2018) [*Mahjoub*] and in *Canada v South Yukon Forest Corporation*, 2012 FCA 165, application for leave to the Supreme Court dismissed, no 34946 (December 6, 2012) [*South Yukon*], in order to meet this standard, “it is not enough to pull at leaves and branches and leave the tree standing. The entire tree must fall” (*Mahjoub* at para 61; *South Yukon* at para 46).

[28] This is clearly not the situation here.

IV. Conclusion

[29] Mr. Mehedi has not identified any error in the Order that would permit or justify the Court to intervene or interfere with Associate Judge Cotter’s Order. Having failed to meet his burden, Mr. Mehedi’s appeal must be dismissed.

[30] The AGC is seeking costs on the motion. I note that Mr. Mehedi is self-represented and has already been ordered to pay a total of \$1,490 in costs to the AGC. However, I see no reason to depart from the usual rule that costs follow the event. In addition, this is the fifth order rendered by this Court dismissing various motions filed by Mr. Mehedi in this matter.

[31] One of the objectives of costs is deterring abusive behaviour. Here, it is clear that this appeal was bound to fail from the outset given Mr. Mehedi's failure to identify any error on the part of Associate Judge Cotter in the Order (*Carreau* at para 112). As this motion should not have been brought or pursued, Mr. Mehedi shall be ordered to pay costs in the amount of \$500 pursuant to Rule 400(7).

ORDER IN FILE T-1113-23

THIS COURT ORDERS that:

1. The Applicant's motion to appeal Associate Judge John C. Cotter's order dated October 1, 2025 is dismissed.
2. The Applicant shall pay the Respondent costs in the all-inclusive amount of \$500.

"Denis Gascon"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-1113-23

STYLE OF CAUSE: MD. GOLAM SARWAR MEHEDI v ATTORNEY
GENERAL OF CANADA

DATE OF HEARING: OCTOBER 21, 2025

PLACE OF HEARING: BY VIDEOCONFERENCE

ORDER AND REASONS GASCON J.

DATED: NOVEMBER 5, 2025

APPEARANCES:

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FOR THE APPLICANT
(ON THEIR OWN BEHALF)

Wil Doucette

FOR THE RESPONDENT

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