

Date: 20090417

Docket: A-595-08

Citation: 2009 FCA 120

Present: NOËL J.A.

BETWEEN:

NICO VAN DUYVENBODE

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on April 17, 2009.

REASONS FOR ORDER BY:

NOËL J.A.

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REASONS FOR ORDER

NOËL J.A.

[1] The Respondent moves to strike from the record the affidavit filed by the Applicant.

[2] An affidavit must be premised upon personal knowledge. Its purpose is to adduce facts relevant to the dispute without gloss or explanation (*Bell Canada v. Canada (Canadian Human Rights Commission)*, (1991), 39 F.T.D. 97 at 99; *Vancouver Island Peace Society v. Canada*), (1993), 64 F.T.R. 127 at 149).

[3] It is apparent that the applicant confuses the purpose of the affidavit which he has filed with the submissions which he is entitled to make in support of his application. The affidavit is replete with arguments and conclusions of law. The usual remedy would be to strike out the parts of the affidavit that do not consist of statements of fact. However, the applicant's affidavit is unseverable.

[4] The affidavit will accordingly be struck in its entirety with leave to file a further affidavit which conforms with the Rules.

[5] As no costs were sought, none are awarded.

“Marc Noël”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-595-08

STYLE OF CAUSE: Nico van Duyvenbode and Attorney
General of Canada

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY: Noël J.A.

DATED: April 17, 2009

WRITTEN REPRESENTATIONS BY:

Nico van Duyvenbode

ON HIS OWN BEHALF

Neil McGraw

FOR THE RESPONDENT

SOLICITORS OF RECORD:

John H. Sims, Q.C.
Deputy Attorney General of Canada

FOR THE RESPONDENT