

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20190409**

**Docket: A-62-18**

**Citation: 2019 FCA 73**

**CORAM: STRATAS J.A.  
LASKIN J.A.  
LOCKE J.A.**

**BETWEEN:**

**MARCO CALANDRINI**

**Appellant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

Heard at Ottawa, Ontario, on April 9, 2019.  
Judgment delivered from the Bench at Ottawa, Ontario, on April 9, 2019.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**STRATAS J.A.**

Federal Court of Appeal



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**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the Bench at Ottawa, Ontario, on April 9, 2019).**

**STRATAS J.A.**

[1] The appellant appeals from the decision dated January 19, 2018 of the Federal Court (*per* Mosley J.): 2018 FC 52.

[2] In the Federal Court, the appellant brought two applications for judicial review of two decisions made in the course of RCMP disciplinary proceedings: the decision to initiate a conduct hearing against the appellant and the decision to extend the prescribed time for making that decision. The Federal Court dismissed both applications on the basis of prematurity (paras. 59-61) relying upon decisions such as *Canada (Border Services Agency) v. C.B. Powell Limited*, 2010 FCA 61, [2011] 2 F.C.R. 332 at paras. 30-33. The Federal Court went on to hold that even if the applications were not premature, the decisions were reasonable and the Court should not intervene (at paras. 88 and 144).

[3] The appellant appeals the dismissal of the application for judicial review of the decision concerning the extension of time. The appellant submits that the application was not barred by prematurity.

[4] In response to a question at the appeal hearing, the appellant fairly concedes that the standard of review of the Federal Court's characterization of the extension of time decision as an interlocutory decision subject to the prematurity doctrine is palpable and overriding error. Palpable and overriding is a high standard: *Benheim v. St-Germain*, 2016 SCC 48, [2016] 2 S.C.R. 352 at para. 38, citing *South Yukon Forest Corp. v. R.*, 2012 FCA 165 at para. 46. We are not persuaded that the Federal Court's characterization was vitiated by palpable and overriding error.

[5] The appellant submits that the doctrine against premature judicial reviews applies only where following the administrative regime to completion will yield an effective remedy. The appellant submits that that is not the case here.

[6] We need not consider this submission. In the end, we see no reviewable error in the Federal Court's conclusion that the interpretation of the provision concerning the granting of extension of time for proceedings of the Conduct Board, section 47.4 of the *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10, was reasonable. On this, we substantially agree with the Federal Court's reasons at paragraphs 68-83. We also agree with the conclusion of the Federal Court and its supporting analysis that the granting of the extension of time was reasonable on these facts.

[7] The appellant also submits that the Federal Court erred in finding that the appropriate recourse for the appellant against the granting of an extension of time was to proceed before the Conduct Board as opposed to filing a grievance under section 31 of the *Royal Canadian Mounted Police Act*. This submission does not affect our finding that the interpretation of section 47.4 and the decision concerning the extension of time were reasonable. It is also moot, as no grievance was pursued in this case.

[8] Therefore, the appeal will be dismissed with costs fixed in the amount of \$5,000.

“David Stratas”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-62-18

**APPEAL FROM A JUDGMENT OF THE HONOURABLE MR. JUSTICE MOSLEY  
DATED JANUARY 19, 2018, DOCKET NOS. T-891-16 AND T-1197-16**

**DOCKET:** A-62-18

**STYLE OF CAUSE:** MARCO CALANDRINI v.  
ATTORNEY GENERAL OF  
CANADA

**PLACE OF HEARING:** Ottawa, Ontario

**DATE OF HEARING:** APRIL 9, 2019

**REASONS FOR JUDGMENT OF THE COURT BY:** STRATAS J.A.  
LASKIN J.A.  
LOCKE J.A.

**DELIVERED FROM THE BENCH BY:** STRATAS J.A.

**APPEARANCES:**

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FOR THE RESPONDENT

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