

Federal Court
of Appeal



CANADA

Cour d'appel
fédérale

Date: 20100614

Docket: A-272-09

Citation: 2010 FCA 160

**CORAM: EVANS J.A.
PELLETIER J.A.
STRATAS J.A.**

BETWEEN:

TEE MENG LIEW

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Edmonton, Alberta, on June 14, 2010.

Judgment delivered from the Bench at Edmonton, Alberta, on June 14, 2010.

REASONS FOR JUDGMENT OF THE COURT BY:

EVANS J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Edmonton, Alberta, on June 14, 2010)

EVANS J.A.

[1] This is an appeal by Tee Meng Liew (appellant) from a decision of the Federal Court, dated June 17, 2009, in which Justice Hughes granted a motion by the Crown to strike the appellant's statement of claim as disclosing no cause of action within the jurisdiction of the Court.

[2] The statement of claim appears to be a claim for damages based on the allegation that the employees of the Crown responsible for the appellant's detention pending deportation knew that they had no legal power to detain him because he could not lawfully be removed from Canada. This

is because, it is said, if the appellant were removed to Malaysia, his country of nationality, he would be liable to be prosecuted for an offence, culpable homicide, for which he would be executed if found guilty. Following a positive PRRA decision, the appellant was released from detention after Malaysian authorities informed the Government of Canada, on July 29, 2009, that they refused its request for an assurance that the death penalty would not be imposed if the appellant were convicted.

[3] In our opinion, a statement of claim cannot simply assert that public officials knowingly abused their legal powers without providing material facts capable of supporting the assertion. The appellant's statement of claim fails to state facts necessary to support his assertion. Instead, it rehearses at undue length the background to this litigation. We see nothing in that history from which an essential element of the cause of action can reasonably be inferred, namely that the officials responsible for the appellant's detention knew, before July 29, 2009, that he could not lawfully be deported from Canada.

[4] For these reasons, the appeal will be dismissed with costs fixed in the amount of \$500.

"John M. Evans"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-272-09

**APPEAL FROM AN ORDER OF THE FEDERAL COURT DATED JUNE 17, 2009,
T-701-09**

STYLE OF CAUSE: Tee Meng Liew v. Her Majesty the
Queen

PLACE OF HEARING: Edmonton, Alberta

DATE OF HEARING: June 14, 2010

REASONS FOR JUDGMENT OF THE COURT BY: (EVANS, PELLETIER, STRATAS
JJ.A.)

DELIVERED FROM THE BENCH BY: EVANS J.A.

APPEARANCES:

Timothy E. Leahy FOR THE APPELLANT

Brad Hardstaff FOR THE RESPONDENT

SOLICITORS OF RECORD:

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