

Date: 20101021

Docket: A-524-09

Citation: 2010 FCA 281

**CORAM: NOËL J.A.
SHARLOW J.A.
LAYDEN-STEVENSON J.A.**

BETWEEN:

MARTHA KAHNAPACE

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Vancouver, British Columbia, on October 21, 2010.

Judgment delivered from the Bench at Vancouver, British Columbia, on October 21, 2010.

REASONS FOR JUDGMENT OF THE COURT BY:

NOËL J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Vancouver, British Columbia, on October 21, 2010)

NOËL J.A.

[1] Having considered the submissions of the parties, we conclude that this appeal is moot.

[2] We have considered whether it should be heard despite its mootness, having regard to the principles in *Borowski (Borowski v. Canada (Attorney General))* [1989] 1 S.C.R. 342).

[3] At the heart of this appeal is a debate about whether Policy 107 is fundamentally inconsistent with the statutory provision requiring that a person convicted of first or second degree murder be subject to the “least restrictive measures consistent with the protection of the public, staff members and offenders” (paragraph 4(d) of the *Corrections and Conditional Release Act*, S.C., 1992, c. 20). We accept that this is an important issue for the appellant and as a matter of public policy.

[4] However, we have concluded that it is not reasonable to expend judicial resources on this appeal because the record on appeal does not lend itself to a fair resolution of this issue.

[5] The appeal is accordingly dismissed for mootness.

“Marc Noël”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-524-09

STYLE OF CAUSE: MARTHA KAHNAPACE v. AGC

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: October 21, 2010

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OF THE COURT BY:** NOËL J.A.
SHARLOW J.A.
LAYDEN-STEVENSON J.A.

DELIVERED FROM THE BENCH BY: NOËL J.A.

APPEARANCES:

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Charmaine de los Reyes

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