Federal Court of Appeal  Cour d'appel fédérale

Date: 20220608

Docket: A-170-21

Citation: 2022 FCA 109

CORAM: **DE MONTIGNY J.A.**
LOCKE J.A.
ROUSSEL J.A.

BETWEEN:

RICHARD CORY STANCHFIELD

Appellant

and

MINISTER OF EMPLOYMENT, WORKFORCE DEVELOPMENT AND DISABILITY INCLUSION, FOR HER MAJESTY THE QUEEN IN RIGHT OF CANADA,

and

CANADA EMPLOYMENT INSURANCE COMMISSION,

and

THE ATTORNEY GENERAL OF CANADA,

and

PIERRE LALIBERTÉ, COMMISSIONER FOR WORKERS, CANADA EMPLOYMENT INSURANCE COMMISSION

Respondents

Heard at Ottawa, Ontario, on June 8, 2022.
Judgment delivered from the Bench at Ottawa, Ontario, on June 8, 2022.

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

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on June 8, 2022).

LOCKE J.A.

[1] Mr. Stanchfield appeals from the dismissal by the Federal Court (2021 FC 467, *per* Phelan J.) of his application for judicial review of a decision by the Canada Employment Insurance Commission (the Commission) refusing to deregister him and to remove any information about himself from the Social Insurance Register (SIR), including his Social Insurance Number (SIN).

[2] The Commission relied on the lack of legal authority to do what Mr. Stanchfield had asked for. The Federal Court agreed.

[3] Mr. Stanchfield argues that the Federal Court erred in several respects. We find no errors.

[4] The standard of review is as argued by the respondents. We are to determine first whether the Federal Court identified the appropriate standard for its review of the Commission's decision, and then whether the Federal Court applied that standard of review correctly: *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36, [2013] 2 S.C.R. 559 at paragraph 45.

[5] The Federal Court correctly identified reasonableness as the applicable standard of review. We disagree with Mr. Stanchfield's argument that the Federal Court should have applied

the correctness standard. The alleged errors turn on the Commission's interpretation of its home statute, the *Department of Employment and Social Development Act*, S.C. 2005, c. 34 (the DESDA) and in particular section 28.1 thereof. Despite the importance of this interpretation to Mr. Stanchfield (and possibly to others), this issue does not fall into any of the exceptions contemplated by the majority of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, 441 D.L.R. (4th) 1 (*Vavilov*), to the presumption of reasonableness review. Though Mr. Stanchfield argues that this appeal affects other institutions, there is no suggestion that it concerns jurisdictional boundaries between two or more administrative bodies, which would attract the correctness standard of review. We also do not agree that this appeal raises questions that are of central importance to the legal system as a whole, as contemplated in *Vavilov*.

[6] In the end, the standard of review was not important to the decision of the Federal Court, since it found that there was only one reasonable interpretation.

[7] Mr. Stanchfield argues that the Federal Court erred by confusing his request for deregistration with a request for rescission. He also focuses on a distinction between being registered with the Commission, and being on the SIR. We are not convinced that the Federal Court was confused in any way about the relief Mr. Stanchfield was seeking. We are also not convinced that there is any meaningful difference between deregistration and rescission as the Federal Court used these terms. Nor is there a meaningful distinction in this appeal between seeking deregistration with the Commission and seeking removal from the SIR.

[8] Mr. Stanchfield argues that the provision of the DESDA that requires registration (subsection 28.1(1)) necessarily implies a right to deregister when the requirements for registration (being "is employed in insurable employment" or "is a self-employed person") no longer apply. The Federal Court found this interpretation to be unreasonable because it was based on a simple grammatical reading of the provision (and specifically the word "is"), and failed to take into account the legislation's scheme, context and purpose. The Federal Court noted that the DESDA provides explicitly for the obligation to register, but has no provision for rescission or deregistration. The Federal Court also noted provisions that permit voiding a SIN, but only in limited circumstances that do not apply here. The Federal Court concluded that the purpose of the SIR is for the government to have a single number for each person to ensure consistency and ease of administration among many different pieces of federal legislation. The Federal Court further concluded that no power, whether explicit or implicit, is given to rescind a SIN, and therefore the holder of a SIN has no right to have it rescinded.

[9] We see no error in these conclusions. In our view, the Federal Court was quite right to confirm the Commission's conclusion that Parliament intended to provide a mechanism for registration, and no mechanism for deregistration.

[10] Mr. Stanchfield argues that the Federal Court erred by not considering the French version of the relevant provisions. We have reviewed the French version and see nothing therein that could have changed the result.

[11] Mr. Stanchfield analogizes registration with the Commission under the DESDA to the voluntary decision to enter into a contract, which implicitly includes a right to withdraw from the contract. There are several reasons why this analogy cannot stand. For example, it is ill chosen since registration under the DESDA is not voluntary. As noted by Mr. Stanchfield himself, the Commission may register someone against their will if they are required to have a SIN but refuse to register: see section 4 of the *Social Insurance Number Regulations*, S.O.R./2013-82. Also, the act of entering into a contract does not imply the right to withdraw. Some contracts permit withdrawal, while others do not.

[12] Mr. Stanchfield argues that the DESDA should be interpreted in a way that respects his fundamental rights. This argument was not properly raised before the Federal Court or before this Court. Moreover, Mr. Stanchfield has not satisfied us that any such rights are threatened by the Commission's interpretation of the DESDA.

[13] For the foregoing reasons, the present appeal will be dismissed with costs in the amount of $1500, all-inclusive.

"George R. Locke"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	A-170-21
STYLE OF CAUSE:	RICHARD CORY STANCHFIELD v. MINISTER OF EMPLOYMENT, WORKFORCE DEVELOPMENT AND DISABILITY INCLUSION, FOR HER MAJESTY THE QUEEN IN RIGHT OF CANADA, and CANADA EMPLOYMENT INSURANCE COMMISSION, and THE ATTORNEY GENERAL OF CANADA, and PIERRE LALIBERTÉ, COMMISSIONER FOR WORKERS, CANADA EMPLOYMENT INSURANCE COMMISSION
PLACE OF HEARING:	OTTAWA, ONTARIO
DATE OF HEARING:	JUNE 8, 2022
REASONS FOR JUDGMENT OF THE COURT BY:	DE MONTIGNY J.A. LOCKE J.A. ROUSSEL J.A.
DELIVERED FROM THE BENCH BY:	LOCKE J.A.

APPEARANCES:

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