

Federal Court of Appeal



Cour d'appel fédérale

Date: 20241007

Docket: A-199-23

Citation: 2024 FCA 164

[ENGLISH TRANSLATION]

**CORAM: BOIVIN J.A.
GLEASON J.A.
HECKMAN J.A.**

BETWEEN:

SOUMAINE DEHKISSIA

Applicant

and

**SUSTAINABLE DEVELOPMENT
TECHNOLOGY CANADA**

Respondent

Heard at Ottawa, Ontario, on October 7, 2024.

Judgment delivered from the bench at Ottawa, Ontario, on October 7, 2024.

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

BOIVIN J.A.

Federal Court of Appeal



Cour d'appel fédérale

Date: 20241007

Docket: A-199-23

Citation: 2024 FCA 164

**CORAM: BOIVIN J.A.
GLEASON J.A.
HECKMAN J.A.**

BETWEEN:

SOUMAINE DEHKISSIA

Applicant

and

**SUSTAINABLE DEVELOPMENT
TECHNOLOGY CANADA**

Respondent

REASONS FOR JUDGMENT OF THE COURT
(Delivered from the bench at Ottawa, Ontario, on October 7, 2024.)

BOIVIN J.A.

[1] The appellant is appealing from a July 25, 2023 order of Justice Pentney of the Federal Court (T-1372-20). Justice Pentney's order dismissed the appeal from the May 20, 2022 order of Associate Judge Steele in the same case; in her order, Associate Judge Steele had dismissed the appellant's motion under Rule 312 of the *Federal Courts Rules*, S.O.R./98-106 (Rules) for leave

to file a supplementary record in support of his application for judicial review filed on November 12, 2020 under subsection 41(1) of the *Access to Information Act*, R.S.C. 1985, c. A-1.

[2] The standards of review in this case are those set out by the Supreme Court of Canada in *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235.

[3] We are all of the opinion that this appeal cannot succeed.

[4] Justice Pentney fully considered Associate Judge Steele’s order in light of the applicable standard (*Hospira Healthcare Corporation v. Kennedy Institute of Rheumatology*, 2016 FCA 215) and the arguments raised by the appellant. He quite rightly noted that this standard imposes a heavy burden and is highly deferential.

[5] Justice Pentney first concluded that the relevant factors for a motion under Rule 312 were correctly identified and applied by Associate Judge Steele, in accordance with the relevant case law (*Rosenstein v. Atlantic Engraving Ltd.*, 2002 FCA 503; *Forest Ethics Advocacy Association v. National Energy Board*, 2014 FCA 88). He then turned to the parties’ common schedule and rejected the appellant’s arguments because [TRANSLATION] “no agreement between the parties or procedural direction may supersede the Court’s discretion to grant or deny leave to file a supplementary record” (at para. 30). Justice Pentney ultimately rejected the appellant’s fair trial rights argument because the appellant [TRANSLATION] “had ample opportunity to file his evidence and make his submissions in this case” (at para. 43).

[6] The appellant raises before this Court substantially the same arguments that have twice been rejected by the Federal Court. We find no error of law and no palpable and overriding error in Justice Pentney's analysis.

[7] For these reasons, the appeal will be dismissed with costs in accordance with column III of the table to Tariff B (Rule 407).

“Richard Boivin”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-199-23

STYLE OF CAUSE: SOUMAINE DEHKISSIA v.
SUSTAINABLE DEVELOPMENT
TECHNOLOGY CANADA

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: OCTOBER 7, 2024

**REASONS FOR JUDGMENT OF THE COURT
BY:** BOIVIN J.A.
GLEASON J.A.
HECKMAN J.A.

DELIVERED FROM THE BENCH BY: BOIVIN J.A.

APPEARANCES:

Soumaine Dehkissia

FOR THE APPLICANT
(Representing himself)

Julien Morissette
Marie-Laure Saliah-Linteau
Emily Lynch

FOR THE RESPONDENT

SOLICITORS OF RECORD:

OSLER, HOSKIN & HARCOURT LLP
Montréal, Quebec

FOR THE RESPONDENT