

Federal Court of Appeal



Cour d'appel fédérale

Date: 20251009

Docket: A-127-23

Citation: 2025 FCA 185

**CORAM: LOCKE J.A.
HECKMAN J.A.
PAMEL J.A.**

BETWEEN:

DANNY PALMER

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Ottawa, Ontario, on October 9, 2025.
Judgment delivered from the Bench at Ottawa, Ontario, on October 9, 2025.

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 October 9, 2025).

LOCKE J.A.

[1] Danny Palmer, a former employee of the Canadian Security Intelligence Service (CSIS), appeals a decision of the Federal Court (2023 FC 529, *per* Justice Yvan Roy) that dismissed his application for judicial review of a decision of the Security Intelligence Review Committee (SIRC). The SIRC decision dismissed Mr. Palmer's complaint filed on February 27, 2018 pursuant to section 41 of the *Canadian Security Intelligence Service Act*, R.S.C. 1985, c. C-23

(*CSIS Act*). The dismissal of Mr. Palmer's complaint was based on subsection 41(2), which prohibits the SIRC from investigating complaints "in respect of which the complainant is entitled to seek redress by means of a grievance procedure established pursuant to [the *CSIS Act*] or the *Federal Public Sector Labour Relations Act*". The SIRC concluded that most of the allegations made in Mr. Palmer's complaint had been raised and addressed in several previous complaints he made. In respect of new allegations of assault and associated retribution and harassment (assault allegations), the SIRC concluded that, though Mr. Palmer had not raised them in his grievance procedure, he could have done so.

[2] Mr. Palmer argues that CSIS' internal procedure for addressing grievances excludes harassment complaints (which are dealt with under a different procedure), and therefore the SIRC erred in concluding that his assault allegations could have been addressed in a grievance. He also argues that the Federal Court erred in dismissing his application for judicial review of the SIRC's decision.

[3] The parties agree on the relevant legal test on this appeal. We must decide whether the Federal Court (i) identified the appropriate standard of review of the SIRC's decision, and (ii) applied it correctly: *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36, [2013] 2 S.C.R. 559 at para. 45. This Court is to step into the shoes of the Federal Court such that our focus is effectively on the SIRC's decision. However, this does not mean that the appellant can or should ignore the reasons given by the Federal Court in rejecting its application. Where the Federal Court appears to have given a complete answer to all the arguments that the appellant advances, he bears a strong tactical burden to show on appeal that

the Federal Court's reasoning is flawed: *Bank of Montreal v. Canada (Attorney General)*, 2021 FCA 189, 2021 D.T.C. 5111 at para. 4.

[4] The Federal Court identified reasonableness as the appropriate standard of review, and Mr. Palmer does not take issue with that. His position is rather that the Federal Court erred in finding that it was reasonable for the SIRC to conclude that his assault allegations could have been addressed through the grievance procedure.

[5] Reasonableness is concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process, as well as with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, 441 D.L.R. (4th) 1 at para. 86 (*Vavilov*). A reasonable decision is one that is both based on an internally coherent reasoning and justified in light of the legal and factual constraints that bear on the decision. A decision will be unreasonable where the conclusion reached cannot follow from the analysis undertaken or if the reasons read in conjunction with the record do not make it possible to understand the decision maker's reasoning on a critical point: *Vavilov* at para. 103. Similarly, the internal rationality of a decision may be called into question if the reasons exhibit clear logical fallacies, such as circular reasoning, false dilemmas, unfounded generalizations or an absurd premise: *Vavilov* at para. 104. Reasonableness is the appropriate standard of review even in cases in which administrative decision makers interpret their home statutes: *Vavilov* at para. 25.

[6] Mr. Palmer's memorandum of fact and law raises six issues on appeal and argues that the standard of review applicable to all but one of them is correctness. However, his argument on his recent motion to adduce new evidence and his oral submissions acknowledges that these issues distill down to the single issue of the reasonableness of the conclusion that subsection 41(2) of the *CSIS Act* applied to exclude Mr. Palmer's complaint from investigation by the SIRC.

[7] Mr. Palmer presents several arguments supporting his view that subsection 41(2) of the *CSIS Act* did not apply to exclude his complaint. However, his arguments do not convince us that the SIRC's analysis and conclusion to the contrary were unreasonable. The SIRC's decision described the long history of Mr. Palmer's complaints and explained its conclusion that subsection 41(2) applied. In this regard, we note that Mr. Palmer did make some harassment allegations in a supplemental grievance that was filed with the Public Sector Staff Relations Board (PSSRB) in 2004. This grievance, including the harassment allegations, was received by the PSSRB (over the objections of CSIS) and later resolved by settlement (which settlement included a broad release from all employment-related claims). In this sense, Mr. Palmer's 2004 harassment allegations were addressed. Mr. Palmer acknowledges that he could have raised the assault allegations in the same grievance and had them considered. He did not do so for his own reasons but, as the Federal Court observed, the key issue is whether he was entitled to. The SIRC's conclusion that he was so entitled was reasonable.

[8] Our view on this point is not changed by the new evidence that Mr. Palmer was given leave to adduce by Order of this Court dated October 7, 2025. The documents in question aid his argument that CSIS addresses harassment allegations through a process that is different from a

grievance. However, they do not respond to the fact that Mr. Palmer was able to make harassment allegations in a grievance procedure in 2004. As indicated above, these could have included his assault allegations.

[9] Mr. Palmer also takes issue with the Federal Court's application of the doctrine of issue estoppel in this case. He argues that this doctrine should not apply to decisions in which the SIRC focused on jurisdictional issues and did not consider the merits of his complaints. We disagree with such a narrow view of issue estoppel. That view would allow a complainant to repeatedly assert allegations that were raised late or were otherwise not appropriate for review on the merits. We can see no reason to place such a limit on the doctrine of issue estoppel. All of Mr. Palmer's previous complaints were addressed, whether on the merits or otherwise, and finally disposed of by a decision of the SIRC from which either no judicial review was sought or in which Mr. Palmer was denied an extension of time to commence an application for judicial review (which denial was maintained on appeal).

[10] For the foregoing reasons, the appeal will be dismissed with costs.

"George R. Locke"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-127-23

STYLE OF CAUSE: DANNY PALMER v. ATTORNEY
GENERAL OF CANADA

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: OCTOBER 9, 2025

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

DELIVERED FROM THE BENCH BY: LOCKE J.A.

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