

CANADA / JUDGMENT

Lavoie v. Canada

2001 FCT 565

COURT

Federal Court

DECIDED

31 May 2001

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Lavoie v. Canada Court (s) Database Federal Court Decisions Date 2001-05-31 Neutral citation 2001 FCT 565 File numbers T-2048-00 Decision Content Date: 20010531 Docket: T-2048-00 Neutral Citation: 2001 FCT 565 BETWEEN: MICHEL LAVOIE Applicant

- and - HER MAJESTY THE QUEEN Respondent REASONS FOR ORDER AND ORDER BLAISJ.

- [1] This is an application by the applicant for a permanent injunction allowing him to have access to a conventional telephone in accordance with the Commissioner of Corrections' Directive 084.
- [2] I have carefully reviewed the applicant's application record as well as the respondent's application record and the reply record.
- [3] It appears that this application is moot because the Correctional Service has responded favourably to the applicant's request to have access to a telephone.
- [4] In that regard, I reviewed the affidavit of Robert Rousseau dated March 28, 2001, and the exhibits to that affidavit.
- [5] It appears from the affidavit that the applicant proceeded in the usual manner by making a written request on March 15, 2001, to which he received a favourable response on March 27, 2001, as shown in Exhibit P-1 to the affidavit of Mr. Rousseau.
- [6] If the response dated March 27, 2001, had been negative, I would understand that the applicant could have brought proceedings to have the decision changed, even though that remedy would first have had to be sought within the usual grievance procedure in the penitentiaries.
- [7] In the case before us, the applicant chose to proceed by way of an application for an injunction, which seems excessive to me in the circumstances.
- [8] According to established case law in similar matters, in order to succeed in a proceeding of this nature, the applicant should have met three tests: that he has a serious question to be tried, that he would suffer irreparable harm if the injunction were not granted, and that he establishes that the balance of convenience is in his favour.

[9] It is clear, on the face of the record, that the applicant does not meet any of those tests.

[10] The application for an injunction is therefore dismissed with costs. Pierre Blais Judge
OTTAWA, ONTARIO May 31, 2001 Certified true translation Sophie Debbané, LLB FEDERAL
COURT OF CANADA TRIAL DIVISION NAMES OF COUNSEL AND SOLICITORS OF RECORD
COURT FILE NO.: T-2048-00 STYLE OF CAUSE: MICHEL LAVOIE

- and - HER MAJESTY THE QUEEN WRITTEN MOTION REVIEWED WITHOUT APPEARANCE
OF THE PARTIES REASONS FOR ORDER AND ORDER OF BLAIS J. DATED: May 31, 2001
WRITTEN SUBMISSIONS BY: Michel Lavoie ON HIS OWN BEHALF Sébastien Gagné FOR
THE RESPONDENT SOLICITORS OF RECORD: Morris Rosenberg FOR THE RESPONDENT
Deputy Attorney General of Canada Ottawa, Ontario

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