

CANADA / JUDGMENT

Mohammad v. McGill University

2025 FC 572

COURT
Federal CourtDECIDED
28 March 2025

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T-2322-24 Citation: 2025 FC 572 Ottawa, Ontario, March 28, 2025 PRESENT: The Honourable Mr.
Justice Zinn BETWEEN: AHMAD MOHAMMAD Plaintiff and MCGILL UNIVERSITY, HIS MAJESTY
THE KING Defendants ORDER AND REASONS

- [1] The Plaintiff has filed a motion seeking reconsideration of my Order dated February 17, 2025, [the Order] pursuant to Rule 397(1) of the Federal Courts Rules, SOR/98-106 [the Reconsideration Motion].
- [2] The Order granted the Crown Defendant's motion striking the Amended Statement of Claim as against the Secretariat on Responsible Conduct of Research [the Secretariat], as originally named in the action by the Plaintiff, and as amended in the Order to His Majesty the King, in keeping with section 48 of the Federal Courts Act, RSC 1985, c F-7, which requires actions against the federal Crown to be taken in the name of His Majesty the King. The Amended Statement of Claim was struck without leave to amend for failing to disclose a reasonable cause of action, and the action as against the Secretariat was dismissed with costs payable by the Plaintiff to the Secretariat of \$500.
- [3] The Plaintiff's Reconsideration Motion seeks multiple forms of relief and requests a hearing in Toronto on March 19, 2025.
- [4] Despite continuing errors in the Motion as submitted for filing, on March 12, 2025, I issued a Direction to the Court's Registry to accept it for filing. I issued that Direction in order that the Reconsideration Motion could be dealt with.
- [5] Absent exceptional circumstances, motions for reconsideration must be addressed by the judge whose Order or Judgment is the subject of the Motion: *Gabriel v Mohawk Council of Kanesatake*, 2003 FCT 335. Accordingly, I asked that the Reconsideration Motion be directed to my attention.

- [6] Rule 397(1) permits reconsideration only under specific pre-conditions: 397 (1) Within 10 days after the making of an order, or within such other time as the Court may allow, a party may serve and file a notice of motion to request that the Court, as constituted at the time the order was made, reconsider its terms on the ground that 397 (1) Dans les 10 jours après qu'une ordonnance a été rendue ou dans tout autre délai accordé par la Cour, une partie peut signifier et déposer un avis de requête demandant à la Cour qui a rendu l'ordonnance, telle qu'elle était constituée à ce moment, d'en examiner de nouveau les termes, mais seulement pour l'une ou l'autre des raisons suivantes :
- (a) the order does not accord with any reasons given for it; or
 - a) l'ordonnance ne concorde pas avec les motifs qui, le cas échéant, ont été donnés pour la justifier;
 - (b) a matter that should have been dealt with has been overlooked or accidentally omitted.
 - b) une question qui aurait dû être traitée a été oubliée ou omise involontairement. [emphasis added]
- [7] Nothing in the Reconsideration Motion satisfies either criterion. The Motion clearly seeks not reconsideration per se but reversal of the decision, a remedy available only by way of appeal.
- [8] It has been consistently held that reconsideration is not available as an alternative to an appeal of the decision or order: *Sharma v Canada (Revenue Agency)*, 2020 FCA 203. As noted earlier, the Plaintiff's materials confirm this Motion constitutes a disguised appeal. If proof were needed, this is evident by the first statement of the requested relief "that the Court overturn Justice Zinn's decision dated February 17, 2025 ..."
- [9] Although the Reconsideration Motion seeks an oral hearing, I find that there is no need for an oral hearing and that the motion should be resolved in writing pursuant to Rule 369, as is the usual procedure for such motions. As was noted in *Sterritt v Canada* (1995), 98 FTR 68 (TD), aff'd (1995), 98 FTR 72 (TD), a request for an oral hearing must be supported by substantial evidence that the matter cannot be dealt with in writing. The Reconsideration Motion presents no such evidence.
- [10] For these reasons, the motion must be dismissed.
- [11] I have taken time to detail the reasons for this Order, because the Plaintiff obviously disagrees with the decision that he seeks to have reconsidered. The reality is that his action has been dismissed as against the Federal Crown agency, and thus this Court no longer has jurisdiction over the remaining Defendant. Hence, it is not possible for the Plaintiff to continue this action in the Federal Court and, pursuant to Rule 168, the action is hereby dismissed in its entirety. ORDER inT-2322-24 THIS COURT ORDERS that: The motion for reconsideration is dismissed, without costs; and As this Court only had jurisdiction in this matter because, as originally framed, one Defendant was a federal board, commission or

other tribunal, and as the action as against that Defendant has been struck, without leave to amend, and because the Court has no jurisdiction over the sole remaining Defendant, this action is dismissed in its entirety pursuant to Rule 68. "Russel W. Zinn" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: T-2322-24 STYLE OF CAUSE: AHMAD MOHAMMAD v MCGILL UNIVERSITY, HIS MAJESTY THE KING MOTION IN WRITING PURSUANT TO RULE 369 OF THE FEDERAL COURTS RULES, CONSIDERED AT OTTAWA, ONTARIO. ORDER AND REASONS: ZINN J. DATED: march 28, 2025 WRITTEN REPRESENTATIONS BY: Ahmad Mohammad For The Plaintiff (SELF-REPRESENTED) SOLICITORS OF RECORD: Attorney General of Canada Toronto, Ontario For The Defendant, HIS MAJESTY THE KING Thomas Gold Pettingill LLP Barristers and Solicitors Toronto, Ontario FOR THE DEFENDANT, MCGILL UNIVERSITY

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Prepared on 27 October 2026 · Esheria