

CANADA / JUDGMENT

Séguin v. R.

2002 FCT 404

COURT

Federal Court

DECIDED

10 April 2002

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Séguin v. R. Court (s) Database Federal Court Decisions Date 2002-04-10 Neutral citation 2002 FCT 404 File numbers T-188-02 Decision Content Date: 20020410 Docket: T-188-02 Neutral citation: 2002 FCT 404 Montréal, Quebec, April 10, 2002 Before: Richard Morneau, prothonotary BETWEEN: ANDRÉ SÉGUIN Plaintiff and HER MAJESTY THE QUEEN Defendant Motion by the defendant for an order striking out the plaintiff's statement of claim. [Rules 221(1)(a) and (b) and 369 of the Federal Court Rules (1998)] REASONS FOR ORDER AND ORDER

- [1] In my opinion the plaintiff's statement of claim should be struck out and the Court should dismiss his action without costs pursuant to Rule 22(1)(b) of the Federal Court Rules (1998) ("the Rules"), for the following reasons.
- [2] In his first conclusion the plaintiff asked the Court to re-authorize his escorted temporary absence program.
- [3] Contrary to what was alleged by the plaintiff in his statement of claim, it appeared that an escorted temporary absence program was not authorized for him.
- [4] Consequently, the plaintiff could not ask that his escorted temporary absence program be [TRANSLATION] "re-authorized".
- [5] Also, the plaintiff on October 5, 2001 asked to be given an escorted temporary absence program.
- [6] On December 27, 2001 the warden of the La Macaza Institution, who had the decision-making power with respect to granting such a program pursuant to s. 17 of the Corrections and Conditional Release Act, rejected the plaintiff's request.
- [7] The plaintiff did not file a grievance against that decision.
- [8] Accordingly, the plaintiff cannot ask this Court to judicially review this administrative decision, as he has not exhausted his internal remedies.
- [9] The said conclusion must therefore be struck out in accordance with s. 221(1)(b) of the Rules.

- [10] In his second conclusion the plaintiff asked that corrections be made following the issuing of an inmate offence report.
- [11] The inmate offence report was issued to the inmate on December 3, 2001.
- [12] On January 21, 2002 the independent chairperson heard Correctional Service of Canada v. Séguin and concluded that the said report should be entered in the plaintiff's file as an observation report.
- [13] It appeared that the plaintiff did not dispute this administrative decision.
- [14] As the plaintiff did not challenge the validity of this decision, the second conclusion in the plaintiff's statement of claim must be struck out in accordance with s. 221(1)(b) of the Rules.
- [15] In the third conclusion the plaintiff claimed damages for negligence committed by the Correctional Service of Canada.
- [16] Because it is established that the government can only be held liable if, and only if, the administrative actions allegedly giving rise to damages have been quashed, and in the case at bar, they were not, the plaintiff accordingly cannot claim damages.
- [17] Also, the plaintiff alleged in his statement of claim that the administrative decision not to authorize an escorted temporary absence program for him was made as a result of the inmate offence report issued to him.
- [18] It is clear from reading the document titled [TRANSLATION] "Recommendation/ Decision on Escorted Temporary Absence" that the fact that the plaintiff received an inmate offence report was not a factor taken into account by the decision-maker.
- [19] Consequently, the latter conclusion should be struck out under the same paragraph of the Rules.
- [20] Further, in this conclusion as in the two preceding ones, the plaintiff's statement of claim is far from complying with the drafting requirements contained in Rules 174 and 181 of the Rules. This is in itself a sufficient reason in the circumstances for also striking out the plaintiff's statement of claim.
- [21] Additionally, the two replies filed by the plaintiff against this motion, in so far as they constitute [TRANSLATION] "notices of motion", are dismissed. The plaintiff's application for directions made on February 20, 2002 has become moot and will not be decided, in view of the conclusions arrived at above. Richard Morneau prothonotary Certified true translation Suzanne M. Gauthier, C. Tr., LL.L. FEDERAL COURT OF CANADA TRIAL DIVISION Date: 20020410 Docket: T-188-02 Between: ANDRÉ SÉGUIN Plaintiff and HER MAJESTY THE QUEEN Defendant REASONS FOR ORDER AND ORDER FEDERAL COURT OF CANADA TRIAL DIVISION SOLICITORS OF RECORD FILE: T-188-02 STYLE OF CAUSE: ANDRÉ SÉGUIN Plaintiff and HER MAJESTY THE QUEEN Defendant WRITTEN MOTION CONSIDERED IN MONTRÉAL WITHOUT APPEARANCE BY PARTIES REASONS FOR ORDER BY: RICHARD

MORNEAU, PROTHONOTARY DATED: April 10, 2002 WRITTEN SUBMISSIONS: André Séguin
for the plaintiff Sébastien Gagné for the defendant SOLICITOR OF RECORD: Morris
Rosenberg for the defendant Deputy Attorney General of Canada

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