

Federal Court of Appeal



Cour d'appel fédérale

Date: 20150416

Dockets: A-197-14  
A-198-14

Ottawa, Ontario, April 16, 2015

Present: SCOTT J.A.

BETWEEN:

IZABELA POPOVA

Appellant

and

THE EMPIRE LIFE INSURANCE COMPANY AND MAUREEN WHEELER,  
MANAGER OF THE GROUP LIFE AND DISABILITY CLAIMS

Respondent

**ORDER**

UPON considering the appellant's written motion that I recuse myself from any further participation with regard to the proceedings in Court files A-197-14 and A-198-14 on grounds of apparent bias on my part and that my order dated February 19, 2015 that settled the contents of the Appeal Book be set aside pursuant to Rules 399(2) and 369 of the *Federal Courts Rules* (SOR/98-106) (*Rules*);

AND UPON considering that the test applicable to a motion for recusation is not disputed, the appellant must establish that a reasonable and informed person, with knowledge of all the

relevant circumstances, viewing the matter realistically and practically, would conclude that my conduct and assessment of his motion gives rise to a reasonable apprehension of bias;

**AND UPON** considering that jurisprudence has established that the threshold to meet is high given the existence of a strong presumption of impartiality (see *R. c. S. (R.D.)*, 1997 S.C.J. No. 84, [1997] 3 S.C.R. 484 [*S.(R.D.)*] at paragraph 32);

**AND UPON** considering the direction of the Supreme Court of Canada in *S.(R.D.)* at paragraph 113, I have carefully considered the allegations and the evidence submitted in the appellant's motion since a finding of a reasonable apprehension of bias calls into question not only the personal integrity of the judge, but also the integrity of the entire administration of justice;

**AND UPON** considering the appellant's allegations that by rejecting his motion to address the alleged unethical conduct of one of the respondent's lawyers and to set the contents of the Appeal Book as I did, I was biased since I failed to consider the evidence before me that could support his motion;

**AND UPON** concluding that the appellant's evidence to support his allegation of bias does not meet the threshold set by the applicable jurisprudence of the Supreme Court, consequently I will not recuse myself;

**AND UPON** considering the appellant's motion for reconsideration of my order of February 19, 2015 pursuant to Rule 399(2) of the *Rules* wherein the Court may set aside or vary an order a) by reason of a matter that arose or was discovered subsequent to the making of the order; or b) where the order was obtained by fraud;

**AND UPON** considering the material filed with the Court by the appellant and respondent on the motion for reconsideration;

**AND UPON** concluding that there is no basis upon which to reconsider my February 19, 2015 order, since all of the requests and allegations put forward by the appellant were considered and there is no evidence that a matter was discovered subsequent to the making of the order that could have changed the outcome of my order or that the order was obtained by fraud;

**AND UPON** determining from the material filed by the appellant that he is seeking to re-argue his earlier motion of January 31<sup>st</sup> and continues to make bald allegations against one of the counsels for the respondent and now against this Court, but has failed to introduce any evidence of fraud on the part of the respondent's Counsel which could make his motion receivable.

**THIS COURT ORDERS** that:

1. The appellant's motion for recusal is dismissed.
2. The appellant's motion for reconsideration is also dismissed.
3. Costs for this motion will be fixed in the amount of \$250 in favour of the respondent payable in any event of the cause.

"A.F. Scott"

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J.A.