

Federal Court



Cour fédérale

Date: 20141230

Docket: T-2030-13

Citation: 2014 FC 1260

Vancouver, British Columbia, December 30, 2014

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

NEIL ALLARD
TANYA BEEMISH
DAVID HEBERT
SHAWN DAVEY

Applicants/Plaintiffs

and

HER MAJESTY THE QUEEN
IN RIGHT OF CANADA

Respondent/Defendant

AMENDED ORDER AND REASONS FOR ORDER

UPON having regard to the Federal Court of Appeal's decision dated December 15, 2014, wherein it was held at paras. 20, 21 and 23:

"...although he (the judge) provides a right (the interlocutory injunction) to the four (4) respondents – Mr. Allard, Mr. Davey, Ms. Beemish and Mr. Hebert – he does not, in contrast, explain why he deprives two (2) respondents – Ms. Beemish and Mr. Hebert – of a remedy... I am unable to understand whether the judge intended to exclude Ms. Beemish and Mr. Hebert or simply forgot to deal with their

situation...the wiser course is to return the matter to the judge with a direction that he specifically addresses the situation of Ms. Beemish and Mr. Hebert...I would remit the matter back to the judge for determination solely on the issue of the scope of the remedy, more particularly with respect to Ms. Beemish and Mr. Hebert, in accordance with these reasons.”

AND UPON considering the written representations of the parties dated December 22, 23 and 24, 2014;

THIS COURT ORDERS that:

- [1] The Plaintiffs request a reconsideration of my decision of March 31, 2014, to:
 - (i) order that all patients that held a valid Authorization to Possess (ATP) on March 21, 2013 or, in the alternative, September 30, 2013, are covered by the Exemption Order I made, and to
 - (ii) order that all patients exempted by the Order, including Mr. Hebert and Ms. Beemish, and others similarly situated, can change their address form with Health Canada, pending trial.

- [2] As stated above, the Federal Court of Appeal remitted the issue of the scope of the interlocutory injunction for clarification only, to specify whether the injunction applied to Ms. Beemish and Mr. Hebert. There is no reconsideration to be made and certainly no expansion of the scope of my decision to apply to anyone other than the plaintiffs in the proceeding.

- [3] In considering the balance of convenience, I specifically chose the relevant transitional dates of September 30, 2013 and March 21, 2014, to limit the availability of the injunctive relief

to extend only to those individuals who held valid licenses to either possess or produce marijuana for medical purposes as of those relevant dates.

[4] Accordingly, only those plaintiffs who had a valid license on September 30, 2013 could continue producing marijuana for medical purposes, and only those plaintiffs who held a valid authorization to possess marijuana for medical purposes at the time of my decision on March 21, 2014 could continue to so possess.

[5] In considering the balance of convenience, the remedy I granted was intended to avoid unduly impacting the viability of the Marijuana for Medical Purposes Regulations (MMPR) and to take into consideration the practical implications of the Marijuana Medical Access Regulations (MMAR) licensing regime no longer being in force.

[6] Given that Ms. Beemish did not possess a valid license to possess on March 21, 2014 (the license having expired on January 4, 2014) and that Mr. Hebert could no longer renew his designated production license (having moved residence on October 30, 2013) neither Ms. Beemish nor Mr. Hebert were covered by the injunctive relief granted. The fact that they did not possess valid licenses as of the transitional dates was determinative of their inability to be covered by the injunctive remedy granted.

"Michael D. Manson"

Judge

FEDERAL COURT**SOLICITORS OF RECORD**

DOCKET: T-2030-13

STYLE OF CAUSE: NEIL ALLARD ET AL v. HER MAJESTY THE QUEEN
IN RIGHT OF CANADA

**REASONS FOR ORDER AND
ORDER:** MANSON J.

DATED: DECEMBER 30, 2014

SOLICITORS OF RECORD:

Conroy & Company
Barristers and Solicitors
Abbotsford, British Columbia

FOR THE APPLICANTS

William F. Pentney
Deputy Attorney General of
Canada
Vancouver, British Columbia

FOR THE RESPONDENT