

FEDERAL COURT OF APPEAL

BETWEEN:

Radu Hociung

Appellant

and

Minister of Public Safety and Emergency Preparedness

Respondent

MOTION RECORD

Radu Hociung
246 Southwood Drive
Kitchener, Ontario
N2E 2B1
Tel: (519) 883-8454
Fax: (226) 336-8327
email: radu.cbsa@ohmi.org

TO:

The Registrar
Federal Court of Canada
180 Queen Street West
Suite 200
Toronto, Ontario
M5V 3L6

AND TO:

Eric Peterson, Counsel to the Respondent
DEPARTMENT OF JUSTICE
Ontario Regional Office
The Exchange Tower
130 King St. West
Suite 3400, Box 36
Toronto, Ontario

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TAB 1

NOTICE OF MOTION

A-101-18

FEDERAL COURT OF APPEAL

BETWEEN:

Radu Hociung

Appellant

and

Minister of Public Safety and Emergency Preparedness

Respondent

NOTICE OF MOTION

TAKE NOTICE THAT the appellant will make a motion to the Court in writing under Rule 343(5) of the Federal Courts Rules.

THE MOTION IS FOR:

1. An Order to the Administrator to prepare an appeal book from documents on the record in Federal Court file T-1450-15
2. That the Court accept the enclosed agreement for contents of the appeal book, or in the alterenate, determine the content anew.
3. His costs of this motion; and
4. Such other relief as this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

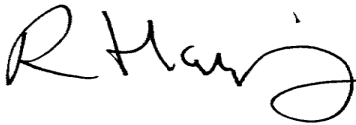
1. The Registrar has refused to accept for filing appeal books already prepared by the Appellant and served to the Respondent.
2. The agreement on the contents of the appeal book was reached within the 30 days required by Rule 343, but it was not filed promptly.
3. The appellant is an inexperienced self-represented litigant, and lacks the experience to prepare the

document to the exacting standards required by the Registry.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The record of the proceeding.
2. The pleadings herein.
3. The affidavit herein.

DATE: June 22, 2018



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Kitchener, Ontario
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TO:
Eric Peterson, Counsel to the Defendant
DEPARTMENT OF JUSTICE
Ontario Regional Office
The Exchange Tower
130 King St. West
Suite 3400, Box 36
Toronto, Ontario

TAB 2

FEDERAL COURT OF APPEAL

BETWEEN:

Radu Hociung

Appellant

and

Minister of Public Safety and Emergency Preparedness

Respondent

WRITTEN REPRESENTATIONS

OVERVIEW

1. This appeal was brought on March 26, 2018 to challenge an interlocutory order of Federal Court Justice Gleeson date March 15, 2018 in case T-1450-15
2. The Appellant is an inexperienced self-represented litigant, and lives outside of Canada.
3. On April 12, 2018, the parties agreed in writing, by email as to the contents of the appeal book.
4. The requirement to file the agreement with the registry within 30 days of serving the notice of appeal was overlooked.
5. The Appellant proceeded to prepare, serve and file the Appeal Book as agreed on April 12th.
6. On May 23, 2018, upon receipt of the Appeal Book copies, the registry contacted the Appellant to inform him that the Appeal Books would not be filed because the deadline for filing an agreement was missed.
7. Prior to the May 23 telephone call from the Registry, the appellant was unaware of the requirement to file the agreement separately, and proceeded with the remaining steps as well as he was able.
8. The registry also noted irregularities with the formatting of the submitted Appeal Book, namely that it was printed double-sided and lacked consecutive page numbers spanning all the tabs in the book.
9. Having decided not to accept the submitted Appeal Book, the registry requested the Appellant to make

arrangements for their return.

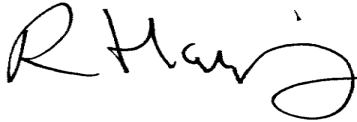
10. On Friday May 25, 2018, the Appellant came to Canada to straighten out the irregularities, and to put the appeal back on track, including filing the agreement and new copies of the Appeal Books with that addressed the deficiencies in the original Books.
11. On May 28, 2018, after a weekend of printing and binding, the Appellant visited the Registry to file the agreement and the new Appeal Books.
12. At the Registry, two Registry officers insisted that neither agreement nor the new appeal books could be filed without a motion to extend time to file, in spite of Rule 72, which addresses irregularities such as these.
13. A third registry officer agreed that Rule 72 does apply to late filings, and the document should be referred to a judge or prothonotary for filing instructions, as specified by that rule. However, she only applied this rule to the agreement, and still refused to apply it equally to the books themselves.
14. This proceeding appears stalled, due to documents not being accepted for filing by the registry.
15. The only roadblock in preventing this proceeding from continuing at this time is the difficulty in getting the Appellant-prepared appeal books accepted for filing, even though they have already been served to the Respondent.
16. An order that the Administrator prepare and file the appeal books would remove this filing roadblock and allow the proceeding to continue.
17. The contents of the appeal book is not in dispute, as the enclosed agreement shows, however, as the filing deadline has been missed, the Court may either use the agreed content, or determine an alternate contents, as if an agreement were not reached at all.

ORDER SOUGHT

18. The Appellant requests:
 - (a) An order that the Administrator prepare the Appeal Book pursuant Rule 343(5)
 - (b) Any time extensions necessary for the Registry to accept filing the resulting Appeal Book.
 - (c) His costs on this motion
 - (d) Any other such order or directions that the Court deems just.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

DATE: June 22, 2018



Radu Hociung
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email: radu.cbsa@ohmi.org

TO:
Eric Peterson, Counsel to the Defendant
DEPARTMENT OF JUSTICE
Ontario Regional Office
The Exchange Tower
130 King St. West
Suite 3400, Box 36
Toronto, Ontario

TAB 3

Affidavit of the Appellant

AFFIDAVIT OF SERVICE

File: A-101-18

FEDERAL COURT OF APPEAL

BETWEEN:

Radu Hociung

Appellant

and

Minister of Public Safety and Emergency Preparedness

Respondent

AFFIDAVIT OF SERVICE


I, Radu Hociung, of the Solidaridad in the Quintana Roo state of Mexico, SWEAR THAT:

- I served Minister of Public Safety and Emergency Preparedness with a Motion Record for the Motion for preparation of appeal books by sending a copy by fax on June 22nd, 2018 to Eric Peterson, solicitor for the Respondent, at (416) 973-5004.
- I served the Minister of Public Safety and Emergency Preparedness with Appeal Books by sending a copy by FedEx, a courier to Eric Peterson, solicitor for the Respondent at the Department of Justice, The Exchange Tower, 130 King Street West, Suite 3400, Box 36, Toronto Ontario, M5X 1K6.
- The Appeal Book copy was given to the courier on May 16, 2018. It was delivered on May 22, 2018.
- I attempted to file 5 copies of the Appeal Book with the registry of the Federal Court of Appeal by sending 5 copies by FedEx, a courier, to The Registry of The Federal Court of

Appeal, 180 Queen Street West, Suite 200, Toronto, Ontario, M5V 3L6.

- The Appeal Book copies were given to the courier on May 16, 2018. They were delivered on May 23, 2018
- The Registry of the Federal Court of Appeal informed me by telephone on May 23, 2018 that they would not accept the Appeal Books for filing, citing that the Agreement for Appeal Book Contents had not been filed with the registry within 30 days of filing an appeal notice, and also that the books were printed double sided, and the page numbering did not appear to be correctly generated.
- On Friday, May 25, 2018, I travelled to Canada to re-file new Appeal Books, printed single-sided and with correct page numbering.
- On May 28, 2018, I attempted to file, in person, the Agreement on the Contents of the Appeal Book. The Registry declined to accept it, citing that it had not been filed within 30 days of filing the appeal notice. I pointed out that Rule 72 requires the Registry to refer the document to a judge or prothonotary, without delay, rather than reject it altogether. The Registry then agreed to refer the Agreement to a judge or prothonotary.
- On May 28, 2018 I attempted a second time to file newly printed copies of the Appeal Books, this time single-sided and with correct page numbers. The Registry refused to accept it, citing that the Agreement on the Contents of the Appeal Book had not been filed on time. I pointed out Rule 72, requiring the registry to refer the documents to a judge or prothonotary for filing directions, however the Registry refused to apply it.

- On May 28, 2018 the Registry returned to me the first edition Appeal Books, as well as the second edition I had brought in person.
- On May 28, 2018, being unable to file the Appeal Books and having no practical way of progressing them before my return to Mexico, I destroyed the 10 copies that were rejected by the Registry by throwing them in garbage disposal.


Radu Hociung

Sworn before me at the City of Solidaridad in the Quintana Roo state of Mexico on June 22, 2018.


LEO LARSEN
Consular Officer of Canada
Consular Agency of Canada
Avenida 10 entre Calle 3 y 5, Playa del Carmen, Mexico, 77710

SOR/2004-283, s. 35

Consular Agency of Canada /
Agence Consulaire du Canada
Plaza Peraiso, Ave. 10 x Calle 3 y 5 Sur
Playa del Carmen, Q.Roo, Mexico

Consular Agency of Canada /
Agence Consulaire du Canada

This certification by the Consular Agency of Canada in Playa del Carmen does not in itself give any legal effect to the content of this document nor does the Consular Agency accept any responsibility for such content.

TAB 4

Agreement as to contents of the Appeal Book

FEDERAL COURT OF APPEAL

BETWEEN:

Radu Hociung

Appellant (plaintiff)

and

Minister of Public Safety and Emergency Preparedness

Respondent (Defendant)

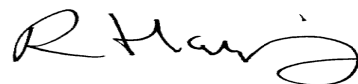
AGREEMENT AS TO THE CONTENTS OF APPEAL BOOK

Pursuant to subsection 343(1) for the *Federal Court Rules*, the parties agree that the following documents shall be included in the appeal book in respect of the above noted appeal:

1. A table of contents describing each document;
2. The Notice of Appeal in this Appeal;
3. The Order of Justice Gleeson dated March 15, 2018, on the motion to Amend the Statement of Claim;
4. The following pleadings from the first instance:
 1. The Statement of Claim with Court File Number T-1450-15
 2. The Statement of Defense with Court File Number T-1450-15
 3. Plaintiff's complete Motion Record for Leave to Amend the Statement of Claim
 4. Defendant's complete Response to the amendment motion motion
 5. Plaintiff's reply to the Defendant's response
5. The Agreement as to the Contents of the Appeal Book; and
6. A certificate, in Form 344, signed by the appellant, stating that the contents of the appeal book are complete and legible

DATED at the City of Playa Del Carmen, Quintana Roo, Mexico, Jun 1, 2018

ATTORNEY GENERAL OF CANADA



Radu Hociung, per: Eric O. Peterson,
Counsel to the Minister of Public Safety

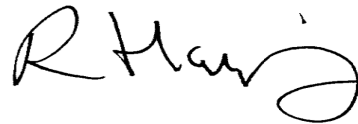
and Emergency Preparedness, by consent

DEPARTMENT OF JUSTICE

Ontario Regional Office
The Exchange Tower
130 King Street West
Suite 3400, Box 36
Toronto, Ontario
M5X 1K6
Tel: (416) 952-6334
Fax: (416) 973-5004

Dated at the City of Playa del Carmen, Quintana Roo, Mexico, May 30, 2018

Radu Hociung



Radu Hociung
246 Southwood Drive
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Subject: RE: Appeals A-101-18 and A-102-18, Radu Hociung vs. MPSEP
From: "Peterson, Eric" <Eric.Peterson@justice.gc.ca>
Date: 31/05/2018 8:47 AM
To: 'Radu Hociung' <radu.cbsa@ohmi.org>

Thank you Mr. Hociung. The formal agreements are fine and you have my consent to sign the forms on my behalf.

Please note my office's new address, effective this week.

Eric Peterson
Crown Counsel / Avocat de la Couronne
Department of Justice Canada / Ministère de la Justice Canada
National Litigation Sector / Secteur national du contentieux
Ontario Regional Office / Bureau régional de l'Ontario
Richmond Adelaide Centre / Centre Richmond Adelaide
120 Adelaide Street West / 120, rue Adelaide Ouest
Suite 400 / Pièce 3400
Toronto (Ontario) M5H 1T1
Tel. / Tél: (647) 256-7550
Fax / Téléc: (416) 973-5004
E-mail / Courriel: eric.peterson@justice.gc.ca

From: Radu Hociung [mailto:radu.cbsa@ohmi.org]
Sent: May 30, 2018 3:54 PM
To: Peterson, Eric <Eric.Peterson@justice.gc.ca>
Subject: Re: Appeals A-101-18 and A-102-18, Radu Hociung vs. MPSEP

Mr Peterson,

Upon trying to file the Appeal Books that I have served you, I found that the Registry will not accept the agreement we reached below in the form of a printout of the email, and as such we should put it in an acceptable formal form.

Kindly find attached two agreements, for the A-101-18 and A-102-18 appeals, that reflect our email agreement. Please execute and return them to me either by email or fax, and I will file them with the Court.

Thank you for your prompt attention

Sincerely

Radu Hociung.

Radu Hociung Tel: 519-883-8454 Fax: 226-336-8327 Email (preferred): radu.cbsa@ohmi.org

On 12/04/2018 1:41 PM, Peterson, Eric wrote:

Mr. Hociung,

Thank you for your email. My client is in agreement with your proposal for the Appeal Books.

Eric Peterson

Crown Counsel / Avocat de la Couronne

Department of Justice Canada / Ministère de la Justice Canada

National Litigation Sector / Secteur national du contentieux

Ontario Regional Office / Bureau régional de l'Ontario

The Exchange Tower / La tour exchange

130 King Street West / 130, rue King Ouest

Suite 3400, Box 36 / Pièce 3400, C.P. 36

Toronto (Ontario) M5X 1K6

Tel. / Tél: (416) 952-6334

Fax / Téléc: (416) 973-5004

E-mail / Courriel: eric.peterson@justice.gc.ca

From: Radu Hociung [<mailto:radu.cbsa@ohmi.org>]

Sent: April 12, 2018 2:29 PM

To: Peterson, Eric <Eric.Peterson@justice.gc.ca>

Subject: Appeals A-101-18 and A-102-18, Radu Hociung vs. MPSEP

Mr. Peterson,

For the appeal books in the two appeals, A-101-18 and A-102-18, pursuant Federal Courts Rule 343(1) the appellant intends to use the following documents:

In each appeal book,

- Motion record of the respective motion being appealed
- Respective responding motion records
- Respective replies
- Statement of Claim and Proposed Amended Statement of Claim

Is your client in agreement with these proposed Appeal Book contents?

Thank you

Radu Hociung

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Radu Hociung Tel: 519-883-8454 Fax: 226-336-8327 Email (preferred): radu.cbsa@ohmi.org