



Canadian
Judicial Council
Conseil canadien
de la magistrature

Our File: 08-0241
14 November 2008

Ottawa, Ontario K1A 0W8

Mr Alain Olivier
4493 de Laroche Street
Montreal, QC
H2J 3J2

Dear Mr Olivier:

I am writing in regard to your recent complaint against the Honourable Michel Caron, of the Quebec Superior Court. In accordance with the *Complaints Procedures* of Council, I referred your complaint to the Honourable John D. Richard, Chief Justice of the Federal Court of Appeal and Vice-chairperson of the Judicial Conduct Committee of Council. Chief Justice Richard has now completed his review of your complaint and he has asked me to provide you with this response.

As you know, the mandate of the Council, in matters of conduct, is to determine whether a judge has become incapacitated or disabled from the due execution of the office of judge for one of the grounds enumerated in the *Judges Act*. In such cases, the Council can make a recommendation that the judge be removed from office. However, the Council is not a Court and cannot review or reverse judicial decisions.

Your complaint alleges that Justice Caron has misused his powers and that he made several errors in the course of the hearing of your action against the RCMP. You say that the judge "simply disregarded the overwhelming evidence presented before him." Chief Justice Richard advises that one of the central duties of a judge is to assess the evidence before the Court, including the credibility of witnesses. If a judge, in any given case, makes an error in accepting or rejecting evidence, this is not a matter of judicial conduct, but a matter to be addressed by the courts, usually by way of appeal. Likewise, if errors were made about the application of legislation or of the *Charter* (a point on which Chief Justice Richard expresses no opinion), then the recourse is to take the matter up on appeal. These issues are not for the Council to address. This aspect of your complaint, therefore, is dismissed.

You also allege that the judge had made up his mind "from the start" about key aspects of your case and that he therefore wasted everyone's time and resources by proceeding with a trial of your action for damages. However, you provide no information that would sustain such an allegation. A well

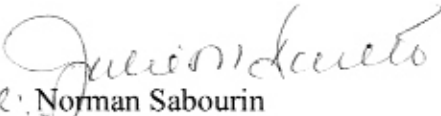
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established principle of law is that the impartiality of judges is presumed. In the case of *Wewaykum Indian Band v. Canada*, [2003] 2 S.C.R. 259, the Supreme Court of Canada pointed out that the party who alleges partiality has the burden to present clear and cogent evidence to that effect. This must be done before the Court and is not, in of itself, a matter of judicial conduct. Accordingly, this aspect of your complaint is dismissed as well.

In your letter, you suggest that the judge was the subject of "political influences surrounding this case." Other than making bald statements, you provide no information whatsoever to support such a grave accusation. This aspect of your complaint is dismissed as well.

Chief Justice Richard, after considering all the information you provided, as well as the reasons for decision of Justice Caron, concludes that your complaint is manifestly without substance. He has therefore directed me to close the file by providing you with this letter.

Yours sincerely,


for: Norman Sabourin
Executive Director and Senior General Counsel