

In the Court of Appeal of Alberta

**Citation: Parikh v Amazon Canada Fulfillment Services, ULC,
2024 ABCA 303**

**Date: 20240923
Docket: 2403-0058AC
Registry: Edmonton**

Between:

Pranav Parikh

Applicant

- and -

**Amazon Canada Fulfillment Services, ULC, Amazon.com Inc, Amazon.com.ca, Inc
(Amazon), Canwest Logistics Ltd., The Appeals Commission for Alberta (WCB AC),
Workers' Compensation Board (WCB) and Alberta Justice**

Respondents

**The Honourable Justice Kevin Feehan
The Honourable Justice Kevin Feth
The Honourable Justice Tamara Friesen**

Memorandum of Judgment

Application to Reargue Appeal

Memorandum of Judgment

The Court:

I. Overview

[1] Mr Parikh applies under rule 14.38(2)(c) of the *Alberta Rules of Court*, AR 124/2010, to reargue or reopen his appeal after having entered into a consent judgment to resolve that appeal.

[2] At the hearing of the application, after his full submissions, Mr Parikh made an application for an adjournment. This application was made without notice to the respondents or the Court, without affidavit evidence, and over the objections of the respondents. The Court dismissed the adjournment application from the bench.

[3] For the reasons below, the application to reargue or reopen the appeal is dismissed.

II. Procedural History

[4] On January 15, 2024, Mr Parikh filed an originating application against the respondents Amazon, Canwest, the Appeals Commission for Alberta Workers' Compensation, the Workers' Compensation Board, and Alberta Justice. The originating application alleged a workplace injury at Canwest/Amazon, constructive dismissal by Canwest, a failure by the Workers' Compensation Board to provide lost wages, benefits, and medical aid, and a failure by the Appeals Commission to set a timely hearing date.

[5] On February 15, 2024, the parties appeared before an applications judge on a motion to strike the originating application. The applications judge dismissed the originating application and ordered costs against Mr Parikh.

[6] On March 14, 2024, Mr Parikh appealed that decision to the Court of King's Bench. He submitted the decision was "biased", the order "has no base" and was "a fake order". The chambers judge determined that Mr Parikh's "appeal is completely hopeless", there were "absolutely no grounds of appeal", and "in no way [could he] be successful". He struck the notice of appeal, declared Mr Parikh a vexatious litigant pursuant to s 23.1 of the *Judicature Act*, RSA 2000, c J-2, and ordered costs against Mr Parikh.

[7] On March 18, 2024, Mr Parikh appealed that decision to this Court, "seeking a procedural order to advance the claim and start the litigation with [the] questioning phase".

[8] On April 24, 2024, the parties attended an appeal conference before a single judge of this Court. As a result of that appeal conference, the parties agreed to a consent judgment which set aside the declaration Mr Parikh was a vexatious litigant, without prejudice to any of the respondents bringing an application in future to declare him a vexatious litigant, presumably on new evidence.

[9] The appeal from the chambers judge was otherwise dismissed and the originating application filed by Mr Parikh remained struck.

[10] Mr Parikh says after the consent judgment was concluded, he spoke to counsel for Canwest about starting this process again with filing a statement of claim against the respondents. He was advised he “would not be able to proceed by Statement of Claim ... as [he] was now out of time (*Limitations Act*)”. He says he had not understood that he could not now go back, under a different process, and recommence these allegations. He therefore brings this application to reargue or reopen the appeal which was dismissed pursuant to the consent judgment, presumably to set aside that consent judgment and allow him to advance an argument that he should be entitled to appeal the chambers judge’s decision.

III. Test for Rearguing an Appeal

[11] Reargument of an appeal is only allowed in exceptional circumstances and the test is high. The purpose of reargument is to address situations where the court has been misled in regard to the record before it or the nature of the issues, or where it appears that the Court overlooked or misapprehended the evidence in a significant respect, or where obvious errors are found in the decision or calculations. A rehearing is not meant to allow the parties to make or remake arguments that might have been made or were made at the original hearing of the appeal: *WestJet v ELS Marketing Inc*, 2014 ABCA 372, para 3, 13 Alta LR (6th) 181; *Tailleur v McKiernan*, 2020 ABCA 199, para 2.

[12] Because the test for reargument is high, permission is rarely granted: *Piikani Nation v Kostic*, 2018 ABCA 275, para 2; *Hayden v Alberta Health Services*, 2019 ABCA 128, para 5. There is a heavy onus on the applicant to justify a rehearing, and to be successful an applicant must establish that the error must have affected the result: *Angus v R Angus Alberta Limited*, 1988 ABCA 279, para 1, 62 Alta LR (2d) 33; *Keller v Penkoske*, 2004 ABCA 267, para 4.

IV. Analysis

[13] Mr Parikh voluntarily entered into the consent judgment after full discussion and having been encouraged on several occasions to obtain legal advice, which he refused to do.

[14] A compromise was reached by the parties and effected in the consent judgment. Mr Parikh’s concern that he may not now recommence the entire process on hypothetical future proceedings is not an exceptional circumstance which would warrant allowing him to reopen or reargue his appeal. There was no “procedural irregularity”, as he has suggested. Recommencing his entire claim at this time would undoubtedly be an abuse of process.

[15] The Court was not misled in regard to the record before it or the nature of the issues to be determined at the appeal conference. It did not overlook or misapprehend the evidence in any

respect. It made no errors of law and even if any errors had been identified by Mr Parikh they could not have compromised the resulting consent reached by the parties.

[16] Mr Parikh has not met the heavy onus to justify a rehearing.

V. Conclusion

[17] The application is dismissed. Rule 9.4(2)(c) is invoked.

Application heard on September 19, 2024

Memorandum filed at Edmonton, Alberta
this 23rd day of September, 2024

Feehan J.A.

Feth J.A.

Friesen J.A.

Appearances:

P. Parikh, Applicant

A.M. Pozzobon

for the Respondent, Amazon Canada Fulfillment Services, ULC

E. Cohen-Gallant

For the Respondent, Canwest Logistics Ltd