



TO : Judicial Administrator

FROM : Stratas J.A.

DATE : April 22, 2025

RE : A-131-25
David Joseph MacKinnon and Aris Lavranos v. Canada (Attorney General)

DIRECTION

Since last fall, a judge has reviewed every originating document filed in the Court to see if a review is required. The review is authorized by the Court's plenary jurisdiction and Rule 74 of the *Federal Courts Rules*, S.O.R./98-106.

In such a review, the Court examines whether a document should be removed from the Court file. In the case of an originating document, if the originating document is removed from the file, the file is closed. Case law under Rule 74 and the Court's plenary jurisdiction has clarified that in the case of an originating document, this may be done if the proceeding launched by the document is subject to a fatal flaw or other objection that, if found to be present, would bring the proceeding to an end: *Dugré v. Canada (Attorney General)*, 2021 FCA 8 at paras. 19-24 and cases cited therein; *Li v. Canada (Citizenship and Immigration)*, 2024 FCA 174.

The Court has decided that the notice of appeal in this court file should be reviewed.

The Court's concern is that the appeal might now be moot. Mindful of the legal test in *Borowski v. Canada (Attorney General)*, [1989] 1 S.C.R. 342, the Court asks the parties for written submissions on the following questions:

- (1) Even if the appellants were to succeed on the merits of the appeal, is the relief of any practical use? The former Parliament has been dissolved and cannot be resumed by quashing the prorogation: see the *Proclamation Dissolving Parliament*, SI/2025-57; Canada Gazette, Part II, vol. 159, no. 3.
- (2) Assuming the answer to question (1) is "no", should the appeal nevertheless be heard on the ground that a resolution of the issues in the appeal is in the public interest, within the meaning of *Borowski*, above, and later cases.

Written submissions in the form of an informal letter addressed to the Judicial Administrator shall be served and filed with the Registry on the following schedule:

- Appellants - May 2, 2025 (up to ten pages, single-spaced);
- Respondent – May 14, 2025 (up to ten pages, single-spaced); and
- Appellants in reply – May 20, 2025 (up to four pages, single-spaced).

I shall conduct the review. Therefore, the written submissions shall be returned to me as soon as the filings are complete.

The timelines for the appeal are suspended pending the Court's decision on the review.

“DS”