



CRIMINAL JUSTICE

FIREARMS

Appeal from Federal Court decision (2019 FC 1509) dismissing application for judicial review from decisions made by two firearms officers acting under *Firearms Act*, S.C. 1995, c. 39, *Authorizations to Carry Restricted Firearms and Certain Handguns Regulations*, SOR/98-207 denying appellant's application for authorization to carry restricted firearm in his helicopter — Appellant transporting guides, hunters by helicopter in remote areas — Stating restricted firearm needed to ensure safety of himself, passengers in case of grizzly bear attack — After receiving appellant's application, officers interviewed him, then informed him that they would deny his application — After interview, officers sought outside advice from government officials — Federal Court holding that officers' decisions procedurally fair, substantively reasonable — Whether officers' decisions procedurally unfair — Having to determine moment when officers made their decisions — If officers denying appellant's application at end of interview, then consultation afterward with government officials smacking as illegitimate attempt to shop for additional facts, opinions to cooper up decisions already made — If, on other hand, officers' decisions taking place when they released their written reasons, then necessary to analyze whether officers affording procedural fairness to appellant leading up to their decisions — Federal Court equivocating on this point — Officers finally deciding matter when signing, issuing their written reasons — Post-interview statement to appellant best regarded as ill-advised expression by officers of "lean" or tendency to decide in particular direction — Appellant entitled to high level of procedural fairness — Appellant's application having to be redetermined — Factors in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, 174 D.L.R. (4th) 193 considered — Fair, important, necessary to disclose government officials' facts, assessments to appellant — Officers offending principle of *audi alteram partem* — Case herein representing first time after *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, 441 D.L.R. (4th) 1 that decisions of firearms officers reviewed by Federal Court of Appeal — Firearms officers conducting redeterminations should have regard, *inter alia*, to governing legislation, threat of bears to appellant, availability of alternatives, efficacy of handguns — There need only be reasoned explanation on redeterminations concerning key issues, including key arguments made — Appeal allowed.

SEXSMITH V. CANADA (ATTORNEY GENERAL) (A-462-19, 2021 FCA 111, Stratas J.A., reasons for judgment dated June 4, 2021, 14 pp.)