



[2022] 2 F.C.R. D-3

FEDERAL COURT JURISDICTION

Related subject: Practice

Motion by respondent seeking to strike applicant's notice of application on basis Court lacking jurisdiction — In underlying application, applicant seeking judicial review of Director of Public Prosecutions (DPP) decision to stay five private informations brought by applicant for private prosecutions — Applicant relying on Yukon Supreme Court case law to argue that Crown prosecutor, when directing stay, acting as counsel for Attorney General and thus, falling within definition of federal board, commission or other tribunal — Respondent arguing that applicant's argument failing to address current state of law, that Supreme Court of Canada clarifying that jurisdiction is to be determined not by nature of body exercising authority but by source of authority being exercised — Whether Court having jurisdiction to hear application — Source of prosecutor's discretion considered in *SNC-Lavalin Group Inc. v. Canada (Public Prosecution Service)*, 2019 FC 282, [2019] 3 F.C.R. 327 — Prosecutor, in exercising discretion, not exercising powers conferred by *Director of Public Prosecutions Act*, S.C. 2006, c. 9, s. 121 or *Criminal Code*, R.S.C., 1985, c. C-46 — Prosecutorial discretion is derived from the common law and the Constitution — Therefore, in present instance, prosecutor exercising his discretion to stay applicant's private informations did so pursuant to the common law and the Constitution — In so doing, the DPP was not acting as a federal board, commission or other tribunal necessary to clothe Court with jurisdiction — Motion allowed; application dismissed.

WOOD V. CANADA (ATTORNEY GENERAL) (T-2504-22, 2023 FC 224, Coughlan A.J., reasons for order date February 17, 2023, 9 pp.)