

IN THE SUPREME COURT OF BELIZE, A.D. 2020

CLAIM NO. 355 OF 2020

CORPORAL #61 ELSON ARZU

APPLICANT

AND

COMMISSIONER OF POLICE

RESPONDENT

BEFORE the Honourable Madam Justice Sonya Young

Hearing

2020

9th and 16th July

Decision:

16th July

Appearances:

Mrs. Nazira Uc Myles with Ms. Alberta Perez, Counsel for the Applicant.

Ms. Agassi Finnegan, Counsel for the Respondent.

Keywords: Administrative – Leave to Apply for Judicial Review – Central Board of the Police Association - Decision not to endorse the Applicant and his Slate – Decision to Extend Time in Which to Accept Nominations – Extension of Time in Which to Hold Elections - Delay – Good Reason – Alternate Approach not Mandated by Law Chosen – Continuing Event

ORAL RULING

1. This is an application for judicial review of the Commissioner’s decision not to endorse Cpl Elson Arzu and his slate as the new Central Board of the

Police Association. Thereafter, the Applicant alleges that the Commissioner extended the time for submission of nominations and for the holding of elections beyond that mandated by the statutory provisions of the Police Association Rules of the Police Act Chapter 138. He has asked that all the offending decisions be quashed and his slate be endorsed as the newly elected Central Board. The Respondent has raised the general bar of delay.

2. Good administration in public law demands timeliness. No one should be held in suspense as to the validity of the decision made. Judicial review proceedings must, therefore, be brought promptly and in Belize not later than three (3) months from the offending decision. While the Court may exercise its discretion to extend time, a good reason for the delay must be provided. The Court notes that the application states quite explicitly that *“the applicant is not aware of any limit which has been exceeded in making this application”*. This may mean that no reasons, good or otherwise, have been contemplated or presented. But it certainly does not mean that none exists or that they can not be gleaned from the affidavits filed.

Endorsement of Slate:

3. Counsel for the Claimant accepted that from the facts presented, it is obvious that the Applicant realised that there may have been an infringement of his rights once the elections were not held in January, 2020 and he and his slate had not been endorsed. However, Cpl Arzu sought no review through the Court until mid-June, 2020. His Counsel, however, drew the Court’s attention to Cpl Arzu’s letters written to, inquiries made to, and meetings attended with the Commissioner. These she urged were pursued always with the hope of resolution in his favour.

4. The Court agrees with Counsel for the Respondent that the law is clear. A party is free to pursue any course of action he chooses. But where it is not a legally mandated course, then he cannot rely on eventual failure and misplaced hope to found a good reason for his delay.

5. For completeness, the Court also considered what substantial hardship or prejudice the applicant would suffer if he is refused leave. He has not addressed this in any affidavit before the Court, but at worst he and his slate will not have an opportunity to serve as the Central Board. That service would have been for one year, beginning in January. We are now in June which means almost half of that year of service was allowed to slip by before the Applicant even took action. Even though judicial review matters are heard speedily, at best he may have five months service if he is successful. I do not find this to be a substantial hardship at all since he has endured it without good reason for the past almost six months.

6. Having nothing further to consider, the Court can find no good reason to exercise its discretion in his favour. Leave in this regard is therefore, denied, being barred by delay.

7. I am compelled to state here that his application to injunct the elections, made urgently two days before they were scheduled, was dismissed on similar grounds. The urgency was found to be of the applicant's own making since without good reason he had simply delayed to act.

The decision to extend time for submission of nominations and holding of elections:

8. His application to review the Commissioner's decision to extend the time for submission of nominations and hosting of the Police Association election held on June 17th 2020 will not meet a similar fate, however. The Court finds that the decision to extend time continued until the elections were actually held on June 17th 2020. The application was well within time. Any error of law or failure to understand and apply the law regulating the decision making process is amenable to judicial review. This Court finds that the Applicant has an arguable case and one which is more than merely academic.
9. There being no bars, leave is accordingly granted to apply for judicial review of each of the Commissioner's decisions to extend time and his decision to host the election in June, 2020.
10. The Applicant must file his Claim within fourteen (14) days of receipt of this order.
11. The first hearing of the Claim is fixed for 3rd September, 2020.

**SONYA YOUNG
SUPREME COURT JUDGE**