

Federal Court



Cour fédérale

Date: 20150929

**Dockets: T-1287-15
T-1227-15
T-1282-15
T-1309-15
T-1336-15**

Citation: 2015 FC 1126

Toronto, Ontario, September 29, 2015

PRESENT: Prothonotary Kevin R. Aalto

Docket: T-1287-15

BETWEEN:

WALLY DOVE

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-1227-15

AND BETWEEN:

JASON DOVE

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-1282-15

AND BETWEEN:

MICHAEL BURSEY

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-1309-15

AND BETWEEN:

GLENN BURSEY

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

Docket: T-1336-15

AND BETWEEN:

MICHAEL BURSEY

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

ORDER AND REASONS

[1] In *Meads v Meads*, 2012 ABQB 571, Associate Chief Justice Rooke of the Alberta Court of Queen's Bench wrote at length about a group of litigants to which he gave the name "Organised Pseudo-Legal Commercial Argument (OPCA)" litigants. OPCA litigants follow a now well-known path of illogic, presumption, and pseudo-legal rants. In the course of his very lengthy decision in *Meads*, Associate Chief Justice Rooke describes in great detail the approaches of OPCA litigants and the similarities which they have in the many court actions which have been brought. These actions fall into this category and the Plaintiffs are quintessential OPCA litigants.

[2] These five cases all engage the approaches described by Associate Chief Justice Rooke. That is, these Plaintiffs endeavour to build a cause of action based on snippets and fragments of international treaties, the *Canadian Charter of Rights and Freedom*, various Supreme Court of Canada cases and miscellaneous statutes, both federal and provincial. All of these are bound together in pseudo-legal verbiage.

[3] At the opening of the hearing of these motions to strike, the Plaintiff, Wally Dove (Dove) who was the primary spokesman for all Plaintiffs, was asked what this case was about and what reasonable cause or causes of action were contained in the statements of claim. The five statements of claim mirror each other with a few small exceptions.

[4] In a rambling discourse, Dove began by saying that the claims seek the “administration of justice” and to that end he provided to the Court and to counsel for the Defendant a document entitled “Quotes from our Pleadings, etc.” The Court received the document but ignored the last several pages which dealt with evidence respecting a damage claim. Notably, not only do all the statements of claim begin with a reference to Section 24(2) of the *Charter* and the administration of justice, so did the document provided to the Court. The quotation found in paragraph 1 is attributed to “the Honorable Gerard Mitchell of the Supreme Court of Canada”, which then sets out what appears to be a quotation from some case or other but there is no indication of what case. It is to be observed that the quotation refers to Justice Le Dain of the Supreme Court of Canada and the quotation refers to the administration of justice. It should also be noted that there is no judge by the name of Gerard Mitchell currently on the Supreme Court of Canada nor has there been at any time since the creation of the Supreme Court of Canada.

[5] Apart from the request for the “administration of justice”, Dove then launched into a convoluted explanation of wrongs that he said were central to these cases. The wrongs which create the alleged causes of action include: 1) the actions of Canada Revenue Agency in enforcing the *Income Tax Act* which actions are argued to be invalid because the *Income Tax Act* was never “enabled” and is therefore void and of no effect; 2) that there is a debt obligation owed to Dove and the other Plaintiffs by virtue of security which they each allege arises from the registration of their birth (more will be said about this later); 3) as a “human being” each of the Plaintiffs’ unlimited rights and freedoms have been infringed; 4) they have been arbitrarily dealt with and prosecuted pursuant to various statutes which are of no force or effect such as the *Income Tax Act*; and, 5) fraud or mistake by virtue of the actions of government officials arising

from enforcement of various statutes. These alleged causes of action are of the same cut of cloth of standard OPCA litigant claims. They are entirely without merit and notwithstanding Dove's earnest belief that they amount to causes of action they are not and are entirely bereft of any chance of success.

[6] Of particular note is the claim that their birth registration and the form of document created to show a live birth is somehow equivalent to "security" as defined in the *Bank Act*. They then argue that their birth registration is a document which fits within the definitions of security found in the *Bank Act* and creates a debt to the Plaintiffs which they want paid Dove suggested the money to pay would come from realizations on the minerals and natural resources of Canada. This, in turn, gives rise to a payment in the millions to the Plaintiffs from the Consolidated Revenue Fund (the money for nothing argument as described in *Meads*).

[7] These Plaintiffs also allege that they are owed duties by Her Majesty the Queen pursuant to various international treaties and the Charter and these rights have been breached. They do not have unlimited freedom (i.e. they are required to obtain jobs to pay for licences/taxes/realty taxes etc.) or are required to contribute towards the economic social and cultural development of the Defendant (i.e. pay taxes). They argue they sent notices of demand and notices opting out of these legislative requirements (in *Meads* this is referred to as the "magic hat" argument). They "opt out" from legislation requirements yet use the Court system to try and enforce these imaginary claims. These are examples of the pseudo-legal drivel which informs much of the content of the statements of claim.

[8] It is apparent not only from Dove's submissions, the statements of claim and the document referred to by Dove that the claims relate to dissatisfaction by the Plaintiffs with government process arising from legislation. In both of the Dove actions it relates to issues involving the enforcement of the payment of income tax. With respect to Michael Bursey it relates to actions taken under the *Ontario Society for the Prevention of Cruelty to Animals Act*, R.S.O. 1990, Chapter O.36, and a warrant that was alleged to have been forged in the name of Her Majesty the Queen as well as the *Income Tax Act*. With respect to Glenn Bursey it is once again the *Income Tax Act* and various issues relating to enforcement in the provincial family courts.

[9] In his submissions, Dove requested that the Court grant leave to amend if these statements of claim did not comply with the Rules of the Court. The notices of motion of the Defendant seek to strike without leave to amend. Leave to amend should only be granted where a defect in a pleading can be cured by amendment [see *Simon v Canada*, 2011 FCA 6 and *Collins v AGC*, 2011 FCA 140]. There is nothing in any of these statements of claim that meet the test for leave to amend as there is nothing that can be cured. None of the statements of claim raise any cause of action and are bereft of any chance of success [see, *Hunt v Carey*, [1990] 2 SCR 959]. They plead no material facts to support any recognizable cause of action and are scandalous, frivolous and vexatious.

[10] All of these actions are struck without leave to amend. In each case the Defendant has sought costs. It is appropriate that costs be awarded in favour of the Defendant. Five motions to strike were necessary but they were all heard together at one hearing. Therefore, an appropriate level of costs for these motions is \$500 per action in favour of the Defendant inclusive of HST.

ORDER

THIS COURT ORDERS that:

1. These actions are hereby struck without leave to amend.

2. Costs in each of the actions in T-1287-15, T-1227-15, T-1282-15, T-1309-15, and T-1336-15 are payable forthwith to the Defendant in the amount of \$500 inclusive of HST.

“Kevin R. Aalto”

Prothonotary

FEDERAL COURT

SOLICITORS OF RECORD

DOCKETS: T-1287-15, T-1227-15, T-1282-15, T-1309-15 AND
T-1336-15

DOCKET: T-1287-15

STYLE OF CAUSE: WALLY DOVE v HER MAJESTY THE QUEEN

AND DOCKET: T-1227-15

STYLE OF CAUSE: JASON DOVE v HER MAJESTY THE QUEEN

AND DOCKET: T-1282-15

STYLE OF CAUSE: MICHAEL BURSEY v HER MAJESTY THE QUEEN

AND DOCKET: T-1309-15

STYLE OF CAUSE: GLENN BURSEY v HER MAJESTY THE QUEEN

AND DOCKET: T-1336-15

STYLE OF CAUSE: MICHAEL BURSEY v HER MAJESTY THE QUEEN

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 22, 2015

ORDER AND REASONS: AALTO P.

DATED: SEPTEMBER 29, 2015

APPEARANCES:

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FOR THE PLAINTIFF

JASON DOVE

FOR THE PLAINTIFF

MICHAEL BURSEY

FOR THE PLAINTIFF

GLENN BURSEY

FOR THE PLAINTIFF

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FOR THE DEFENDANT

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