

Federal Court



Cour fédérale

Date: 20161004

Docket: T-892-16

Citation: 2016 FC 1106

Ottawa, Ontario, October 4, 2016

PRESENT: The Honourable Mr. Justice Martineau

BETWEEN:

ADE OLUMIDE

Plaintiff

and

**HER MAJESTY THE QUEEN IN RIGHT OF
CANADA AND ATTORNEY GENERAL OF
CANADA**

Defendants

JUDGMENT AND REASONS

[1] The defendants, Her Majesty the Queen in Right of Canada and the Attorney General of Canada, are bringing an application to have the plaintiff in this proceeding, Mr. Ade Olumide, declared by this Court a vexatious litigant.

[2] The present application is based on subsection 40(1) of the *Federal Courts Act*, RSC 1985, c F-7 [Act]:

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| 40 (1) If the Federal Court of Appeal or the Federal Court is satisfied, on application, that a person has persistently instituted vexatious proceedings or has conducted a proceeding in a vexatious manner, it may order that no further proceedings be instituted by the person in that court or that a proceeding previously instituted by the person in that court not be continued, except by leave of that court. | 40 (1) La Cour d'appel fédérale ou la Cour fédérale, selon le cas, peut, si elle est convaincue par suite d'une requête qu'une personne a de façon persistante introduit des instances vexatoires devant elle ou y a agi de façon vexatoire au cours d'une instance, lui interdire d'engager d'autres instances devant elle ou de continuer devant elle une instance déjà engagée, sauf avec son autorisation. |
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[3] The present application – which is made with the consent of the Attorney General of Canada (subsection 40(2) of the Act) – has been brought by way of a notice of motion under Rule 369 of the *Federal Courts Rules*, SOR/98-106. According to the Federal Court of Appeal, this is an appropriate way of proceeding (*Nelson v Canada (Minister of Customs and Revenue Agency)*, 2003 FCA 127 at para 22, [2003] FCJ No 407).

[4] The application is supported by the affidavits of Ms. Paule Chamberland dated September 8, 2016 and Ms. Patricia Suys dated September 9, 2016, and appended documentary evidence. The defendants' evidence also provide considerable details of the history of Mr. Olumide's various judicial proceedings at the federal and provincial levels (including Mr.

Olumide's related tax proceedings and appeals and multiple constitutional challenges), and of the various unpaid costs against Mr. Olumide in his numerous actions and applications.

[5] As of today and present time, Mr. Olumide has not filed with this Court any responding material to the defendants' motion, and I have no reason to doubt of the veracity of the facts alleged in the affidavits of Ms. Chamberland and Ms. Suys, nor of the authenticity of the various exhibits produced with same. The evidence in support of the defendants' application is convincing and the arguments made in the defendants' written submissions are compelling.

[6] I need not repeat in these reasons the nature and scope of the ostensibly unsubstantiated and speculative allegations made over time by Mr. Olumide in its numerous proceedings. Since 2013, Mr. Olumide has filed 14 applications and actions before the Federal Court and the Tax Court of Canada, 15 proceedings before the Federal Court of Appeal, 5 applications for leave to appeal before the Supreme Court of Canada and at least 10 proceedings before the Ontario courts. Except for the few proceedings he discontinued, he has been unsuccessful in all his proceedings, a great number of which have been found to be abusive, scandalous, frivolous and vexatious.

[7] Indeed, as outlined in the affidavits of Ms. Chamberland and Ms. Suys, and in a number of decisions of this Court and other courts, Mr. Olumide has been admonished for introducing frivolous proceedings characterized as scandalous, vexatious and abuses of process. He relitigates issues and consistently appeals unfavourable decisions as a matter of course. He makes submissions that are confusing and difficult to decipher, and makes scandalous and

unsupported allegations against the courts, opposing parties, and federal public servants. He ignores court orders, timelines and court rules, and refuses to pay outstanding costs awards against him. The fact that Mr. Olumide has been ordered to pay security for costs has not prevented him from continuing to file proceedings without any due consideration for the public resources needed to respond to his meritless proceedings.

[8] As of August 30, 2016, Mr. Olumide has \$14,652.75 in costs awarded against him in favour of the Crown. The total costs outstanding as outlined in bills of costs provided to Mr. Olumide is \$2,643.95. These amounts do not include costs awards made in favour of other respondents apart from the Crown. As outlined in the affidavit of Ms. Chamberland, as of September 8, 2016, Mr. Olumide has not paid any of the costs owed to the Crown, despite repeated requests that he do so and despite being informed that any outstanding amount would be transferred to the Canada Revenue Agency for collection purposes.

[9] I am satisfied that Mr. Olumide bears all the hallmarks of a vexatious litigant. I wholly endorse the arguments made by the defendants in their submissions to declare Mr. Olumide vexatious pursuant to section 40 of the Act (see paragraphs 77 to 109 of the written representations of Her Majesty the Queen in Right of Canada and Attorney General of Canada dated September 13, 2016).

[10] In particular, I find that:

- (a) Mr. Olumide has been admonished by various courts for engaging in vexatious and abusive behaviour;
- (b) Mr. Olumide institutes frivolous proceedings (including motions, applications, actions and appeals);
- (c) Mr. Olumide makes scandalous and unsupported allegations against opposing parties of the Court;
- (d) Mr. Olumide relitigates issues which have been already been decided against him;
- (e) Mr. Olumide unsuccessfully appeals interlocutory and final decisions as a matter of course;
- (f) Mr. Olumide ignores court orders and court rules; and
- (g) Mr. Olumide refuses to pay outstanding costs awards against him.

[11] Therefore, based on the evidence on record, I find that Mr. Olumide “has persistently instituted proceedings or has conducted a proceeding in a vexatious manner” (subsection 40(1) of the Act). At present day, Mr. Olumide has been undeterred by numerous unfavourable judgments, warnings by various courts, cost consequences or by an order awarding security for costs. This includes Mr. Olumide’s conduct in the present proceeding (file T-892-16) and related

appeal to the Federal Court of Appeal (file A-201-16), and which again, clearly demonstrates that Mr. Olumide's behaviour before this Court is ungovernable.

[12] Having considered all relevant factors mentioned in subsection 40(1) of the Act and in the case law (notably *Canada v Olympia Interiors Ltd*, 2001 FCT 859 at para 51, [2001] FCJ No 1224 [*Olympia FC*], aff'd *Canada v Olympia Interiors Ltd*, 2004 FCA 195 at paras 3, 8 and 9, [2004] FCJ No 868 [*Olympia FCA*]), in the exercise of my discretion, I am satisfied that, in the present circumstances, an order under subsection 40(1) of the Act "is necessary in order to maintain respect for the judicial process and to protect others from frivolous and pointless litigation" (*Olympia FC* at para 50).

[13] The present motion is allowed and the requested declaration and order sought by the defendants are granted. Mr. Ade Olumide is a vexatious litigant pursuant to section 40 of the Act. All proceedings instituted by Mr. Ade Olumide and currently before the Federal Court are stayed. No proceeding of any kind before the Federal Court may be commenced or continued without the authorization of that Court. No procedure or document presented for filing by Mr. Ade Olumide, whether acting for himself or having his interests represented by another individual, shall be accepted by the registry of the Federal Court, except by leave of that Court. The defendants are entitled to the costs of the motion, which are fixed at \$2,240 in lieu of any assessed costs.

JUDGMENT

THIS COURT HEREBY ADJUDGES, DECLARES AND ORDERS that:

1. The defendants' motion is allowed;
2. Mr. Ade Olumide is a vexatious litigant pursuant to section 40 of the *Federal Courts Act*, RSC 1985, c F-7;
3. All proceedings instituted by Mr. Ade Olumide and currently before the Federal Court are stayed;
4. No proceeding of any kind before the Federal Court may be commenced or continued without the authorization of that Court;
5. No procedure or document presented for filing by Mr. Ade Olumide, whether acting for himself or having his interests represented by another individual, shall be accepted by the registry of the Federal Court, except by leave of that Court;
and
6. Mr. Ade Olumide is condemned to pay to the defendants the lump sum of \$2,240 in lieu of any assessed costs.

“Luc Martineau”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-892-16

STYLE OF CAUSE: ADE OLUMIDE v HER MAJESTY THE QUEEN IN
RIGHT OF CANADA AND ATTORNEY GENERAL
OF CANADA

**MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO PURSUANT TO
RULE 369 OF THE *FEDERAL COURTS RULES***

JUDGMENT AND REASONS: MARTINEAU J.

DATED: OCTOBER 4, 2016

APPEARANCES:

Daniel Caron

FOR THE DEFENDANTS

SOLICITORS OF RECORD:

Ade Olumide

FOR THE PLAINTIFF
(ON HIS OWN BEHALF)

William F. Pentney
Deputy Attorney General of Canada
Ottawa, Ontario

FOR THE DEFENDANTS