

Federal Court



Cour fédérale

Date: 20240119

Docket: T-2742-23

Citation: 2024 FC 92

Ottawa, Ontario, January 19, 2024

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

JESUS DONA

Plaintiff

and

ATTORNEY GENERAL OF CANADA

Defendant

REASONS FOR ORDER

I. Introduction

[1] The Plaintiff brings an *ex parte* motion under Rules 359 and 361 of the *Federal Courts Rules*, SOR/98-106, seeking various orders and prohibitions. The Plaintiff makes identical requests for relief in his underlying Statement of Claim (the “claim”), filed the same day. The Plaintiff names the Royal Canadian Mounted Police (the “RCMP”) and the “Toronto Police” as defendants to the claim and as respondents on the motion.

[2] As a preliminary matter, it should be noted that the Attorney General of Canada (hereon, the “Defendant”) appeared before the Court on behalf of the RCMP and ought to have been named as the defendant in its stead.

[3] Further, the Plaintiff filed the claim and the *ex parte* motion together on December 27, 2023. He served the claim on the Attorney General of Canada, but provided no notice or service of the motion material. On January 4, 2024, I directed that the Court would not entertain the motion on an *ex parte* basis and instructed the Registry to serve the Attorney General of Canada.

[4] Additionally, the Plaintiff made a request to the Court to hear his *ex parte* motion on an emergency basis in a letter filed on January 2, 2024. On January 3, 2024, I directed that the Court was not convinced that the motion must be heard on an emergency basis and that the motion remained scheduled to be heard in-person on January 9, 2024.

II. Background

[5] In their written submissions, the Defendant has aptly reviewed, to the extent possible, the facts alleged by the Plaintiff in his submissions and in the underlying claim, as summarized below.

[6] In January 2023, the Plaintiff’s wife had him removed from their home with the assistance of police authorities. His wife has previously admitted him to psychiatric hospitals on two previous occasions. As a result, the Plaintiff states he became homeless and found his current residence at a Toronto shelter in April 2023.

[7] In the underlying claim, the Plaintiff asserts that police institutions, namely the RCMP and the “Toronto Police”, are conducting wiretap and video surveillance of him and his two children upon the direction of his wife. The Plaintiff claims that he and his children suffered psychological damage and bodily harm as a result.

[8] In this motion, the Plaintiff repeats and expands upon the allegations made in his underlying Claim. He alleges that police institutions are harming him both outside and within the shelter. Specifically, the Plaintiff suggests that he is given food and drinks that cause him “strong pain” and that reduce his “brain life expectancy”, that there are lasers hidden in the A/C and heating ducts above his bed which damage his head, skin, and testicles, and that he is pressured to have sex with other men. He also claims that police authorities might be “making false videos” depicting him in a negative light. The Plaintiff further states that there is national interest in him and his descendants “based on good personality traits, plus an incredible psychological stability”.

[9] The Plaintiff alleges breaches of sections 2, 6, 7, 8, 12, 15, 24 and 28 of the *Charter of Rights and Freedoms* (“Charter”) as well as several articles of the *Universal Declaration of Human Rights*. He also cites the rule of law, the principles of fundamental justice and procedural fairness as well as “the right of health and to be healthy”.

[10] The Plaintiff seeks \$50,000,000 in damages on his behalf and \$10,000,000 on behalf of each of his two children. He also requests various orders and prohibitions with respect to police authorities, public authorities, private institutions, international authorities and school authorities.

[11] The Plaintiff frames these requests as follows. First, the Plaintiff requests that this Court make several orders and prohibitions as against the RCMP and Toronto Police, specifically:

1. to stop surveillance of him and his two children, including voiding all alleged orders for wiretapping and video surveillance and a disclosure prohibition against information collected;
2. to stop causing intentional psychological and bodily harm to him and his two children;
3. to stop wilful attempts to block, obstruct, pervert or defeat the course of justice;
4. to stop manipulating him and his two children using his wife or other family members;
5. a prohibition against entering his places of residence or vehicles;
6. a prohibition to “request by force, intimidation or in exchange of something, even sex, to me and my two children”;
7. a prohibition against forcing him to have sex with men or women; and
8. a prohibition “to continue all their actions set on the procedure, or any other not mention”.

[12] Second, the Plaintiff requests a prohibition against his children’s elementary school principal, teachers, and staff to “not manipulate” his children in any way.

[13] Third, the Plaintiff requests a prohibition as against any other foreign government entity, including the United States of America, to perform wiretapping or video surveillance of the Plaintiff or his children when they travel.

[14] Lastly, the Plaintiff requests a prohibition as against all private companies or public institutions to perform actions against his rights.

[15] The Defendant submits that the Court should dismiss this motion in its entirety because the Plaintiff has failed to establish any basis whatsoever for the various orders and prohibitions sought. The Defendant also says that the Plaintiff's motion material should be removed from the Court file pursuant to Rule 74. I also sought submissions from both parties as to whether the Statement of Claim itself should also be removed from the Court file under that rule.

III. Issues

[16] Should the Court remove the motion material from the Court file under Rule 74?

[17] Should the Court grant the Plaintiff's motion?

[18] Should the Court remove the Statement of Claim from the Court file under Rule 74?

IV. Analysis

A. *The Motion under Rule 74*

[19] Rule 74 provides as follows:

74 (1) Subject to subsection (2), the Court may, at any time, order that a document be removed from the Court file if the document

(a) was not filed in accordance with these Rules, an order of the Court or an Act of Parliament;

(b) is scandalous, frivolous, vexatious or clearly unfounded;
or

(c) is otherwise an abuse of the process of the Court.

(2) The Court may only make an order under subsection (1) if all interested parties have been given an opportunity to make submissions.

[20] In *Gaskin v Canada*, 2023 FC 1542 [*Gaskin*] at paragraph 1, the Court found that Rule 74 permits the Court, at any time and of its own accord, to order that a document (including an originating document) be removed from the Court file if, among other things, the document is scandalous, frivolous, vexatious, clearly unfounded or is otherwise an abuse of process, provided the parties have an opportunity to make submissions.

[21] The Court in *Gaskin* requested submissions from the parties in that case, found that the originating documents were “inherently frivolous and vexatious”, and ordered those documents removed from the Court’s file, effectively dismissing the proceeding.

[22] *Gaskin* was most recently followed in *Anwar v Nawaz*, 2023 FC 1740. There, the Court sought submissions from the parties with respect to a motion for reconsideration. The Court ultimately found the motion to be abusive and ordered its removal from the Court file.

[23] The Defendant says that the Plaintiff's motion material are scandalous, frivolous, vexatious, and clearly unfounded. The motion makes bold and incoherent assertions and does not accord with common sense, such that the Defendant is incapable of properly responding to it. The Defendant also says that the Plaintiff's motion material are abusive because they are duplicative of the Statement of Claim. The Plaintiff made submissions in the course of oral hearing against the Defendant's position.

[24] I accept the Defendant's submissions and find that the motion material are scandalous, frivolous, vexatious, and clearly unfounded, and that they are abusive. I further find that the motion material should be removed from the Court file pursuant to Rule 74.

B. *The Substance of the Motion*

[25] Even if the motion material are not removed from the Court file under Rule 74, the motion must nevertheless be dismissed for want of jurisdiction and because it lacks any basis in law or in fact.

(1) No Jurisdiction

[26] The Court has no jurisdiction to review the actions of the “Toronto Police” or any other provincial institution. And insofar as the Plaintiff’s allegations may involve a private civil matter against his wife, against unspecified institutions, or in relation to his parental and custody rights, this Court also lacks jurisdiction.

[27] In addition, the Court has no jurisdiction to grant any of the following relief:

1. prohibitions against other foreign governments to cease alleged surveillance within their own jurisdictions;
2. vague and broad prohibitions as against all “private companies” or all “public institutions” to prohibit them from performing any illegal actions; or
3. orders against school authorities at the Plaintiff’s children’s elementary school to “stop manipulating” his children.

[28] There is no basis for the Plaintiff’s suggestion that jurisdiction can be derived from “national interest” in him and his descendants “based on good personality traits, plus an incredible psychological stability”.

(2) No Basis in Fact or Law

[29] Although the Federal Court does have jurisdiction to hear certain matters as to the conduct of the RCMP, there is no basis in fact or law to support the Plaintiff's submissions in that respect.

[30] The Plaintiff makes a number of general and sweeping allegations of criminal wrongdoing against police authorities. The Plaintiff submits no evidence upon which to base his unsupported accusations. The exception is his affidavit, in which he largely relies on belief that is unsubstantiated by evidence of persons having personal knowledge. Such evidence is contrary to Rule 81, and the Court should disregard it (*Cosentino v Canada (Attorney General)*, 2020 FC 884 at paras 65-67).

[31] The Plaintiff has also not identified a federal Crown servant who committed the alleged misconduct, other than the bare identification of police authorities and the naming of the RCMP. Nor has he provided a factual basis to support assertions that the RCMP has any responsibility or nexus to the allegations as to damaging food/drinks, lasers in ducts, and forced sex within the Toronto shelter.

[32] The Plaintiff also fails to identify any applicable tests for each type of order sought or how he has satisfied those tests. Most of the orders and prohibitions requested are vague, inappropriate and simply not relief available at law. Ultimately, the Plaintiff seeks orders and prohibitions which have no basis in law or fact and for which this Court simply cannot grant relief.

[33] The onus is on the Plaintiff to serve and file a motion record that contains all that is required to satisfy the burden of proof for each requested order and to satisfy the Court that these orders are warranted. The Plaintiff has failed to establish any basis for his various requests for orders and prohibitions.

[34] Therefore, were the motion material not removed from the Court file, the motion would nevertheless be dismissed.

C. *The Underlying Claim under Rule 74*

[35] The Plaintiff's underlying claim repeats the assertions contained in the motion and seeks similar relief.

[36] I informed both the Plaintiff and the Defendant that I believe the Statement of Claim to be scandalous, frivolous vexatious, and clearly unfounded, as well as abusive. I also notified the parties that I am inclined to remove the Statement of Claim from the Court file pursuant Rule 74(1) and invited them to provide oral submissions, as required by Rule 74(2), which they did.

[37] Upon hearing the parties' submissions in that respect, I find the Statement of Claim to be scandalous, vexatious, frivolous, and clearly unfounded, and the filing constitutes an abuse of process. As with the motion material, the Plaintiff's claim makes bold and incoherent assertions of unproven damage inflicted upon him by police authorities. The claim is deficient in factual material, lacks any basis in law, and does not accord with common sense, such that the Defendant is incapable of properly responding to the claim.

V. Conclusion

[38] The motion is dismissed.

[39] The Statement of Claim and motion materials shall be removed from the Court file, and the action is consequently dismissed in its entirety, without leave to amend or refile.

[40] No costs are awarded.

ORDER in T-2742-23

THIS COURT ORDERS that:

1. The motion is dismissed.
2. The action is dismissed in its entirety, without leave to amend or refile.
3. The Statement of Claim and motion material shall be removed from the Court file pursuant to Rule 74.
4. No costs are awarded.

"Michael D. Manson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKETS: T-2742-23

STYLE OF CAUSE: JESUS DONA v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JANUARY 9, 2024

JUDGMENT AND REASONS: MANSON J.

DATED: JANUARY 19, 2024

APPEARANCES:

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FOR THE APPLICANT
ON HIS OWN BEHALF

Deniz Samadi

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Toronto, Ontario

FOR THE RESPONDENT