Federal Court  Cour fédérale

Date: 20100609

Docket: T-2077-09

Citation: 2010 FC 621

Toronto, Ontario, June 9, 2010

PRESENT: The Honourable Mr. Justice Mosley

BETWEEN:

THE NATURAL AND SOVRAN-ON-THE-LAND, FLESH, BLOOD AND BONE, NORTH AMERICA SIGNATORY AERIOKWA TENCE KANIENKEHAIKA INDIAN MAN: GREGORY-JOHN: BLOOM©, AS CREATED BY THE CREATOR (GOD)

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

REASONS FOR ORDER AND ORDER

[1] This is a motion dated May 18, 2010 by the plaintiff, Mr. Gregory-John Bloom, acting on his own behalf, for:

1. An extension of time for an Order striking out the order of KEVIN R. AALTO, ESQUIRE PROTHONOTARY in the "Statement of Claim" File number T-2077-09 heard on April 12, 2010, decision dated May 4, 2010;
2. Alternatively, an extension of time for an order granting all of the relief sought in the "statement of claim" T-2077-09 as the defendants were knowingly in default and further granting the plaintiff his costs;

3. Such further and other relief as this Honourable Court deems just.

[2] The plaintiff commenced an action against Her Majesty the Queen by Statement of Claim, dated December 7, 2009.

[3] The Statement of Claim appears to seek, in addition to millions of dollars of aggravated and punitive damages for pain and suffering, an order in the nature of mandamus requiring the defendant to return "all income tax that was removed from source since 1966 onward", "return all pension funds that have been garnished by Revenue Canada" and "removal of the lien that was placed on the home of Gregory-John: Bloom ©, a North American Indian Signatory".

[4] The plaintiff alleges, among other things, that agents of the Canada Revenue Agency ("CRA") made an "arbitrary decision over unlawful collection of Income Tax" and that the defendant "sent out unlawful Third Party Demands not only to his Ironworkers Pension Plan Administrators but also to his Ironworker Company."

[5] The defendant brought a motion on March 23, 2010 to strike the statement of claim as disclosing no reasonable cause of action, as being scandalous, frivolous and vexatious, and as seeking relief that is only available on application for judicial review. Service of the motion proved difficult as the plaintiff has consistently refused to accept service of documents. The plaintiff then filed a motion seeking default judgment which was set down for hearing on April 12, 2010.

[6] By written direction issued on April 8, 2010, Justice Mactavish determined that there was no indication in the affidavit of service filed by the plaintiff that counsel for the defendant had been provided with notice of the motion for default judgment and that it was inappropriate for the motion to be dealt with until such time as the defendant's motion to strike had been heard and decided. The default judgment motion was, therefore, adjourned *sine die* to be brought back on notice to the defendant in accordance with the provisions of the *Federal Courts Rules*, SOR/2004-283,s.2.

[7] The defendant's motion was heard by Prothonotary Aalto on April 12, 2010 and his order of May 4, 2010 granted the motion and struck the Statement of Claim in its entirety without leave to amend.

[8] Prothonotary Aalto adopted the following statement of Prothonotary Hargrave in *Ceminchuk v. Canada*, (1995), 56 A.C.W.S. (3d) 277, [1995] F.C.J. No. 914, at para. 24, as applicable with equal force to the present case:

> **24** The Court of Appeal recently remarked, albeit in a slightly different context, that "Courts are public institutions for the resolution of disputes and cost substantial public money. Court congestion and delay is a serious public concern.": Adams v. Commissioner of The Royal Canadian Mounted Police et al., an unreported decision of October 7, 1994, in action A-634-93 at p. 7 [Please see [1994] F.C.J. No. 1480]. That proposition was subsequently endorsed by the Chief Justice in Jangir Sidhu v. Minister of National Revenue, an unreported decision of November 16, 1994, in action A-679-93 [Please see [1994] F.C.J. No. 2028]. Litigants, and that includes lay litigants, who bring actions which are forlorn and doomed, cannot expect the luxury of being allowed to continue proceedings of which nothing can come. To allow this action to proceed would not only be an abuse of the process of the Court, but also an abuse of the taxpayer. The Statement of Claim is therefore struck out. [Emphasis of Prothonotary Aalto]

[9] Prothonotary Aalto found that the Statement of Claim gives no information to ascertain with particularity the facts giving rise to a cause of action which would be properly before this Court. In his view, the claim's offensive statements sufficed to illustrate why the Statement of Claim was bereft of any chance of success.

[10] Under Rule 51 of the *Federal Courts Rules*, a party may appeal a prothonotary's decision within ten (10) days of the date of the order. Pursuant to Rule 8, the Court may extend a period provided by the Rules. The plaintiff did not appeal Prothonotary Aalto's order within the ten days as required under Rule 51. He brought this motion on May 18, 2010 for an extension of time to appeal.

[11] The defendant has consistently encountered difficulties in attempting to serve the plaintiff with documents in these proceedings. Accordingly, on May 31, 2010 Justice Pinard adjourned the hearing of the appeal motion in order to allow defendant to serve their motion record in response to that of the plaintiff by ordinary mail. The plaintiff appeared at the hearing with a copy of the defendant's motion record unopened in the envelope in which it was delivered to him.

[12] In considering whether to grant an application to extend time, the Court must consider whether (i) the applicant had an continuing intention to pursue his or her application; (ii) the application has some merit; (iii) that no prejudice to the respondent arises from the delay; and (iv) that a reasonable explanation for the delay exists: *Canada (Attorney General) v. Hennelly* (F.C.A.), (1999), 244 N.R. 399, [1999] F.C.J. No. 846; *Marshall v. Canada* 2002 FCA 172. The length of the

period of the extension may also be a relevant consideration. The underlying consideration is to ensure that justice is done between the parties: *Grewal v.Canada (Minister of Employment and Immigration)* [1985] 2 F.C. 263. The four-pronged test set out in *Hennelly* is a means to ensure the fulfillment of that underlying consideration. An extension of time may still be granted if one of the criteria is not satisfied: *Canada (Minister of Human Resources Development) v. Hogervorst*, 2007 FCA 41.

[13] Based on his oral and written submissions, I accept that the plaintiff had a continuing intention to appeal Prothonotary Aalto's order. There is no assertion of prejudice to the defendant arising from the brief delay. The plaintiff's explanation for the delay is that he had assumed from his experience in a status review proceeding arising from another matter that he would have 15 days in which to file his appeal. In other circumstances involving an unrepresented ligitant, this might be considered a reasonable explanation notwithstanding the clear terms of Rule 51(2) which sets out the 10 day limitation period.

[14] The Court must also, in the exercise of its discretion, consider whether the application has some merit. That is, in this context, whether there is any merit to the plaintiff's appeal of the prothonotary's decision, applying the standard set out by the Federal Court of Appeal in *Merck & Co. v. Apotex Inc*., (2003), 315 N.R. 175, [2003] F.C.J. No. 1925. The Court may intervene if it considers that the questions in the motion are vital to the final issue of the case or, the prothonotary's order is clearly wrong in the sense that the exercise of discretion by the prothonotary was based upon a wrong principle or upon a misapprehension of facts.

[15] Having read the plaintiff's Statement of Claim, his affidavits and written representations and having listened to his efforts to articulate the basis for the claim, I have no difficulty coming to the conclusion that the learned prothonotary made no error of fact or principle. The claim and supporting material filed by the plaintiff is a bizarre compilation of irrelevant excerpts and quotes drawn from a variety of British, American and Canadian constitutional documents and other sources.

[16] Mr. Bloom attempts to bolster his claim with assertions of aboriginal rights. But these are not developed in any intelligible fashion that could be recognized as a valid claim and the references to aboriginal treaty rights have no apparent connection to the remainder of the material. There is nothing in those references that could have been severed and proceeded with to maintain the action.

[17] The result is, as Prothonotary Aalto characterized it, "a mishmash of statements from legal treatises and statutes." These signify nothing upon which the defendant could identify the case it would have to meet. For that reason alone, I find that there is no merit to the plaintiff's appeal and will dismiss this motion for an extension of time. I think it necessary, however, to make some additional comments about the plaintiff's claims.

[18] Mr. Bloom describes himself as a "constitutional consultant". He freely acknowledged during his oral submissions that he had borrowed much of his material from U.S. sources that share his views regarding state authority in fiscal matters. Much of his documentation is concerned with arcane disputes regarding events in American history that have no relevance to Canadian law.

[19] The plaintiff's theory, as best can be determined, is that there is a distinction between a "natural person" and the person recognized by the *Income Tax Act* and other legislation. As a natural person, Mr. Bloom argues, he is not responsible for any taxes levied on the "person", as defined by the statute, who bears his name and social insurance number. This argument, popular in certain libertarian circles at the very outer fringes of society, has been thoroughly discredited by trial and appellate courts in several Canadian jurisdictions: see for example, *Kennedy v. Canada (Customs and Revenue Agency)*, [2000] 4 C.T.C. 186, [2000] O.J. No. 3313, at para. 23; *R. v. Klundert*, 2008 ONCA 767, [2008] O.J. No. 4522; *R. v. Lindsay*, 2006 BCCA 150, [2006] 3 C.T.C. 146.

[20] In this Court, the argument has been analysed and dismissed in *Canada (Minister of National Revenue) v. Stanchfield*, 2009 FC 99, [2009] F.C.J. No. 133 and *Canada (Minister of National Revenue) v. Camplin*, 2007 FC 183, [2007] 2 C.T.C. 205. In *Stanchield*, Justice Gauthier held that natural persons, whether described as acting in their own private capacity for their own private benefit or not, are directly included in the definition of "person" contained in the *Income Tax Act*. I adopt her reasoning and conclusions for the purposes of this motion.

[21] The plaintiff's efforts to use this Court to advance this untenable theory in this action were, in Prothonotary Hargraves' words, "forlorn and doomed" from the outset. He could not "expect the luxury of being allowed to continue proceedings of which nothing can come." Prothonotary Aalto was correct to put an end to it.

[22] The plaintiff's unsubstantiated allegations of bias against Prothonotary Aalto are also entirely without merit. When pressed for a justification of these allegations during the hearing, Mr. Bloom asserted that the defendant's motion had been prejudged and that Prothonotary Aalto had displayed an animus against him in other proceedings. These assertions are based solely on Mr. Bloom's subjective impressions. He has pleaded no facts upon which a person applying the objective standard described by Justice de Grandpré in *Committee for Justice and Liberty v. National Energy Board*, [1978] 1 S.C.R. 369, at 394, could find a reasonable apprehension of bias.

[23] Costs fixed in the amount of $500 and payable forthwith were awarded against the plaintiff by Prothonotary Aalto. The defendant seeks and is entitled to the costs of this motion. They shall be fixed in the amount of $1000 payable forthwith in addition to those outstanding from the prothonotary's order.

ORDER

THIS COURT ORDERS that:

1. The motion for an extension of time to appeal the Order of Prothonotary Aalto dated May 4, 2010 is dismissed;

2. The defendant is awarded costs for this motion fixed in the amount of $1000 payable forthwith in addition to the costs awarded in the May 4, 2010 order.

"Richard G. Mosley"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2077-09
STYLE OF CAUSE:	THE NATURAL AND SOVRAN-ON-THE-LAND, FLESH, BLOOD AND BONE, NORTH AMERICA SIGNATORY AERIOKWA TENCE KANIENKEHAIKA INDIAN MAN: GREGORY-JOHN: BLOOM©, AS CREATED BY THE CREATOR (GOD) v. HER MAJESTY THE QUEEN
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	June 7, 2010
REASONS FOR ORDER AND ORDER:	MOSLEY J.
DATED:	June 9, 2010

APPEARANCES:

Gregory-John Bloom	FOR THE APPLICANT (Self-represented)
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