

Federal Court



Cour fédérale

Date: 20130129

Docket: T-6-13

Citation: 2013 FC 89

Toronto, Ontario, January 29, 2013

PRESENT: Kevin R. Aalto, Esquire, Prothonotary

BETWEEN:

THE LAW SOCIETY OF UPPER CANADA

Applicant

and

MAJOR KEYVAN NOURHAGHIGHI

Respondent

REASONS FOR ORDER AND ORDER

[1] This application is brought by the Law Society of Upper Canada to have the Respondent, Mr. Nourhighi, declared a vexatious litigant pursuant to s. 40 (1) of the *Federal Courts Act* and barring him from initiating any further proceedings in this Court without leave of a Judge of this Court. It is similar to another application in this Court being Court File No. T-2285-12 brought by Her Majesty the Queen which also seeks to have Mr. Nourhighi declared a vexatious litigant pursuant to s. 40 (1) of the *Federal Courts Act*.

[2] The Respondent, Mr. Nourhighi, brings this motion for an order:

- (a). Striking the Notice of Application;
- (b). Costs to be fixed at \$1500.00, to be paid forthwith, in any event of the cause, to the Honourable Major Keyvan Nourhaghighi;

[3] This motion is similar to a motion brought by Mr. Nourhaghighi in Court File No. T-2285-12 which was heard by the Honourable Mr. Justice Beaudry on January 14, 2013 who issued an Order dated January 14, 2013 dismissing the motion and awarding costs to Her Majesty the Queen.

[4] At the outset of the hearing the Court commenced by posing a question to Mr. Nourhaghighi. Mr. Nourhaghighi did not respond to the question posed by the Court. The question was to the effect of “Why isn’t this motion to be dealt with on the same basis as the motion last Monday in which Justice Beaudry of this Court dismissed your motion to strike T-2285-12?” [*Her Majesty the Queen, Applicant v. Major Keyvan Nourhaghighi*, Court File No. T-2285-12, Order of Justice Beaudry dated January 14, 2013]. Rather than answer the question, Mr. Nourhaghighi then launched into a specious attack on the Court alleging bias and conflict of interest against the Court. Mr. Nourhaghighi demanded that the Court withdraw because of the alleged bias and conflict of interest.

[5] Mr. Nourhaghighi pointed to a reference in his motion record in which a direction had been given by the Court to officers of the Courts Administration Services and it was alleged by Mr. Nourhaghighi that these directions were the foundation of contempt proceedings.

[6] There is no doubt that Mr. Nourhaghighi has made allegations of bias and contempt against many individuals including not only lawyers acting on matters against Mr. Nourhaghighi, judges who have dealt with his matters, Federal Court Registry Officers and staff, members of Provincial and Federal Governments and an array of others. A contempt motion brought by Mr. Nourhaghighi against lawyers, registry staff of the Federal Court and others was summarily dismissed by Justice Near by Order dated September 18, 2012 [*Nourhaghighi v. MCI*, 2012 FC 1087].

[7] As the hearing continued, Mr. Nourhaghighi maintained his allegation of bias and conflict against the Court and further advised that the Court would be a witness in a proceeding in the Federal Court of Appeal and therefore the Court should withdraw.

[8] During the course of these submissions, the Court endeavoured to pose questions to Mr. Nourhaghighi regarding the alleged bias and conflict. Mr. Nourhaghighi continued making submissions while the Court was speaking. The Court was endeavouring to pose questions to Mr. Nourhaghighi and seek clarification of Mr. Nourhaghighi's position. Mr. Nourhaghighi did not stop talking and in a most disrespectful manner continued without listening to the Court's admonitions. In an effort to get Mr. Nourhaghighi's attention the Court emphatically requested that Mr. Nourhaghighi refrain from speaking while the Court was speaking. Mr. Nourhaghighi then proceeded to advise the Court that as the Court was "yelling" he was going to withdraw.

[9] Mr. Nourhaghighi then withdrew from the Court.

[10] Mr. Nourhaghighi's conduct was nothing short of contemptuous and disrespectful in light of the fact that he refused to stop talking and respond properly to the directions of the Court. Mr. Nourhaghighi's conduct brings the administration of justice into disrepute when he endeavours to direct the Court process without regard to courtroom decorum and the directions of the Court.

[11] Notwithstanding that Mr. Nourhaghighi chose to withdraw from the Court, the Court continued with the proceeding and sought submissions from the Applicant.

[12] In all of the circumstances, it is my view that there is no basis to support Mr. Nourhaghighi's request that I recuse myself. Nothing in his materials in way suggests that I should not hear this motion. The references made by Mr. Nourhaghighi to my involvement by way of providing directions on a matter on a prior occasion do not, in any way, impact the position on this motion nor put me in a position of conflict or bias. His position that somehow I am a witness in a Federal Court of Appeal matter is baseless. In any event, this motion by Mr. Nourhaghighi falls squarely within the four corners of the decision of the Honourable Mr. Justice Beaudry of January 14, 2013 [*HMQ v. Nourhaghighi*, Court File No. T-2285-12]. For the reasons given by Justice Beaudry, this motion is also dismissed.

[13] The Applicant seeks its costs of this motion on a substantial indemnity basis. The Applicant points to various factors including the unsubstantiated malicious allegations of Mr. Nourhaghighi in his motion record for which there is no evidence and the contemptuous behaviour of Mr. Nourhaghighi in Court today. More specifically, the unsubstantiated malicious allegations which

the Applicant refers to are set out in the “Grounds” section of Mr. Nourhaghighi’s motion record and specifically paragraph 1(f) which reads as follows:

The Applicant, its lawyers’ members and its parties sharing liability with the Toronto Police and RCMP that assaulted and tortured Major [Mr. Nourhaghighi], numerous; yet the Majority of Judges condemned the Applicant’s and its parties by awards to Major;

[14] There are two footnotes in this paragraph. The first footnote refers to the Toronto Police and reads “Justice Cadsby Oral Judgment who found police tortured Major”. By happenstance, Mr. Nourhaghighi endeavoured to file a document with the Court on or about December 24, 2012 entitled a “NOTICE OF CLAIM AS AGAINST DEFENDANTS”. The named Defendants to whom the Notice is directed are John Loncar, Brad Gotkin, Roger Flaim, The Ontario Department of Justice, Mario Sepe, Jack Schutz, Andrew Murray, Michael Switzer, Daniel Gosselin, The Courts Administration Service, Stephan Stebesky, The Minister of Citizenship and Immigration, The Attorney General of Canada, Her Majesty The Queen in Right of Ontario, Her Majesty the Queen in Right of Canada et al. The intended claim, as it states, relates to:

“ . . . bias, hostility and/or negligence of the Defendants caused special and general damages to us [the document also refers to Farzad Nour Haghighi as a claimant] in which the Defendants by unlawful interception of my private communications, thefts of my properties, and interference with medical care entitled us in law for aggravated and special damages too for harms that the Defendants intentionally committed against us with bad faith and dishonestly in accordance with illegal agreements and Perjury in Affidavits and Fraud in the Federal Court Data of Entry.” [emphasis in the original]

[15] There are other allegations made in the document but more importantly, attached to this document is the transcript of the decision of Judge Cadsby of the Ontario Provincial Court dated November 27, 1997. Mr. Nourhaghighi had been charged with two counts of assault which charges were dismissed for reasons given by Judge Cadsby. There is no finding whatsoever that Judge

Cadsby found that Mr. Nourhaghighi was “tortured”. The footnote is entirely incorrect and is an effort by Mr. Nourhaghighi to mislead this Court.

[16] The second footnote is at the end of the paragraph and reads “Federal Court; All levels of **the Courts in Ontario**; Security Intelligence Review Committee.” Neither this footnote nor the prior footnote in any way substantiates the claims of Mr. Nourhaghighi.

[17] Quite apart from his misleading motion materials, there is no doubt that Mr. Nourhaghighi’s conduct, in my view, was disrespectful to the Court as he refused to stop talking in the face of questions from the Court. Mr. Nourhaghighi for all of his many appearances in this Court does not run the Court system, does not dictate what matters will be heard and by whom, and, most assuredly, does not run this Court. In all of the circumstances, it is my view that an award of \$1,500.00 for costs is appropriate.

ORDER

THIS COURT ORDERS that

1. This motion is dismissed.
2. Costs payable forthwith by the Respondent in the amount of \$1,500.00 is awarded to the Applicant.

"Kevin R. Aalto"
Prothonotary

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-6-13

STYLE OF CAUSE: THE LAW SOCIETY OF UPPER CANADA
v.
MAJOR KEYVAN NOURHAGHIGHI

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: January 21, 2013

REASONS FOR ORDER: AALTO P.

DATED: January 29, 2013

APPEARANCES:

Mr. Major Keyvan Nourhaghighi
(self-represented)

FOR THE APPLICANT

Mr. Sean L. Gosnell

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Mr. Major Keyvan Nourhaghighi
(self-represented)

FOR THE APPLICANT

Mr. Sean L. Gosnell
Borden Ladner Gervais LLP
Barristers and Solicitors

FOR THE RESPONDENT