

Federal Court



Cour fédérale

Date: 20211020

Docket: T-1404-20

Citation: 2021 FC 1105

Ottawa, Ontario, October 20, 2021

PRESENT: The Honourable Madam Justice Rochester

BETWEEN:

DALE RICHARDSON

Plaintiff

and

**SEVENTH-DAY ADVENTIST CHURCH,
CIVILIAN REVIEW AND COMPLAINTS
COMMISSION, GRAND LODGE OF
SASKATCHEWAN, COURT OF APPEAL
FOR SASKATCHEWAN, J.A CALDWELL,
UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT, U.S. CUSTOMS AND
BORDER PROTECTION, U.S.
DEPARTMENT OF HOMELAND
SECURITY, CORECIVIC, DEREK
ALLCHURCH, ROYAL CANADIAN
MOUNTED POLICE, CONSTABLE
BURTON ROY, BATTLEFORDS SEVENTH-
DAY ADVENTIST CHURCH, JAMES
KWON, MAZEL HOLM, GARY LUND,
DAWN LUND, CIPRIAN BOLAH, JEANNIE
JOHNSON, MANITOBA-SASKATCHEWAN
CONFERENCE, MICHAEL COLLINS,
MATRIX LAW GROUP, CLIFFORD HOLM,
PATRICIA J. MEIKLEJOHN, CHANTELE
THOMPSON, JENNIFER SCHMIDT, MARK**

CLEMENTS, CHAD GARTNER, BRAD APPEL, IAN MCARTHUR, BRYCE BOHUN, KATHY IRWIN, JASON PANCHYSHYN, CARY RANSOME, SASKATCHEWAN HEALTH AUTHORITY, DR. ALABI, RIKKI MORRISSON, CORA SWERID, DR. ELEKWEM, DR. SUNDAY, COURT OF QUEEN'S BENCH FOR SASKATCHEWAN, JILL COOK, GLEN METIVER, JUSTICE R.W. ELSON, JUSTICE CROOKS, OWZW LAWYERS LLP, VIRGIL A. THOMSON, PROVINCIAL COURT OF SASKATCHEWAN, HONOURABLE JUDGE M. PELLETIER, RAYMOND HEBERT, LINDA HEBERT, EMI HOLM, CHAR BLAIR, COMMUNITY FUTURES, LISA CIMMER and KIMBERLEY RICHARDSON

Defendants

ORDER AND REASONS

[1] On September 29, 2021, the Plaintiff, Mr. Dale Richardson, filed a Notice of Motion returnable at General Sittings on October 13, 2021. The Plaintiff, who is self-represented, seeks the following relief:

- A. An Order to extent the time for appeal for an interlocutory Order issued by Prothonotary Mireille Tabib on August 31, 2021;
- B. An Order granting the appeal of the Order of Prothonotary Mireille Tabib dated August 31, 2021; and
- C. Any other Order the Court thinks is just.

[2] The subject of this appeal is a scheduling order. It sets out the deadlines for the various steps to be taken prior to fixing a date for the hearing of the Defendants' motion for a declaration pursuant to s. 40 of the *Federal Courts Act* (Vexatious Proceedings).

[3] For the reasons that follow, this appeal is dismissed. The Plaintiff has failed to demonstrate that Prothonotary Tabib, the case management judge for the present matter, erred in her order dated August 31, 2021.

I. Background

[4] The following details are taken from the pleadings in this file, including the Motion Record filed in respect of the Plaintiff's Motion and the affidavit of the Plaintiff sworn September 24, 2021, and from the Index of Recorded Entries.

[5] On November 18, 2020, the Plaintiff filed a statement of claim [Statement of Claim] against fifty-seven (57) defendants [Defendants], including various departments of the United States' Government, several churches, the Royal Canadian Mounted Police, the Saskatchewan Health Authority, the Provincial Court of Saskatchewan, the Court of Queen's Bench for Saskatchewan, the Saskatchewan Court of Appeal, and several members of the judiciary.

[6] In the Statement of Claim, the Plaintiff seeks a declaration that the Grand Lodge of Saskatchewan, referred to as the Masons, "are responsible for the actions of all its agents, specifically those working as agents or servants of the Crown in" a number of listed entities including public health authorities, a provincial legislature, the RCMP, the Saskatchewan provincial Courts, the Federal Court and Federal Court of Appeal, the Canada Revenue Agency and the Department of Justice Canada. The Plaintiff also seeks a declaration that said Mason agents are working as agents or servants of the United States in its various listed governmental entities, "rogue agents of the Christian churches" "rogue agents of the banks", and others.

[7] The Plaintiff further seeks a numbers of declarations that the various listed entities and individuals, which he defines as “Canadian Masonic Terrorists”, have, among other things, (i) “participated, concealed or otherwise instructed others in Canadian terrorist activity”, (ii) “engaged in the crime of apartheid”; (iii) “have engaged in genocide”; and (iv) “sanctioned torture committing crimes against humanity”. The Plaintiff seeks similar declarations with respect to entities he defines as “U.S. Masonic Conspirators” and “Transnational Masonic Terrorists”.

[8] The Plaintiff seeks numerous declarations that he was coerced, sanctioned, punished, tortured, and affected by systemic oppression. Numerous allegations are also made in relation to alleged crimes by “the Deep State and the Deep Church”. Among the relief claimed by the Plaintiff is a declaration “that the Defendants are liable to the Plaintiff for the damages caused by its breach of constitutional, statutory, treaties, and common law duties, and that the Attorney General shall be responsible for forfeiting the Deep State and Deep Churchs’ property and thereby compensating the Plaintiff...” and pecuniary damages in the amount of \$1,000,000.

[9] As noted above, this matter is case managed by Prothonotary Tabib. In the time since the Statement of Claim was filed, there have been numerous motions and informal requests filed by the Parties, including a motion for injunctive relief by the Plaintiff. The motion for injunctive relief was initially scheduled for April 29, 2021, however the Plaintiff called the Registry on the day prior to the hearing to advise that he had entered the United States in order to seek asylum and was being held at a detention centre. Consequently, the motion was adjourned. Following the adjournment, certain Defendants wrote to the Court concerning the rescheduling of the

motion for injunctive relief and requested, among other things, that a case management conference be convened in order to set a schedule for motions to strike the action and the motion have the Plaintiff declared a vexatious litigant.

[10] The motion for injunctive relief by the Plaintiff was heard on June 10, 2021 by videoconference. The Plaintiff was present and participated. The motion was denied on June 15, 2021. A Notice of Appeal of the motion for injunctive relief was filed in the Court of Appeal on August 30, 2021.

[11] Prothonotary Tabib held a case management conference on August 31, 2021 by videoconference in order to schedule the next steps in the proceedings. The Plaintiff participated in the case management conference. As appears from the minutes of hearing, during the case management conference certain Defendants enquired about having the motion to strike and the motion to declare the Plaintiff a vexatious litigant heard together. The Court raised a concern that if all the motions were brought together, it may be overwhelming for the Plaintiff as a self-represented litigant. The Plaintiff informed the Court that he expected to be leaving the facility in which he was detained in the next one to six months. The Plaintiff further informed the Court that he went to the United States to seek protection against torture. The balance of the case management conference was devoted to scheduling the deadlines for the various steps to be taken prior to fixing a date for the hearing of the motion for a declaration pursuant to s. 40 of the *Federal Courts Act* (Vexatious Proceedings).

[12] Prothonotary Tabib issued the Order following the case management conference.

[13] According to the Plaintiff's Motion Record, the Plaintiff was deported by the United States Department of Homeland Security to Canada by plane on September 1, 2021. His computers and cell phone were returned to him from the United States on September 18, 2021.

A. *The Order of Prothonotary Tabib*

[14] The Order of Prothonotary Tabib dated August 31, 2021 [Order] is a scheduling order. It sets out the dates by which (i) the Defendants Saskatchewan Health Authority shall serve and file a full motion record on the motion pursuant to s. 40 of the *Federal Courts Act* [s. 40 Motion] (Sept. 15, 2021); (ii) any Defendants wishing to support the s. 40 Motion shall serve and file their responding motion records (Sept. 22, 2021); and (iii) the Plaintiff shall serve and file his responding motion record (Oct. 22, 2021). The Order fixes a case management conference on October 25, 2021 to fix a date, time, place and mode of the hearing for the s. 40 Motion and suspends all other proceedings in the action until further order or direction of the Court.

[15] In addition, the Order notes that the Plaintiff and his family made commendable efforts to ensure that he could participate in the case management conference from the detention center where he was being held. The Order further notes that while the Defendants would have preferred that their motions to strike be brought, heard and determined concurrently with the s. 40 Motion, the Court was concerned that defending all the motions concurrently would prove overwhelming for the Plaintiff. Consequently, Prothonotary Tabib determined, with the Plaintiff concurring, that the s. 40 Motion would be briefed, determined and heard first, and the motions to strike would only proceed in the event that the s. 40 Motion was dismissed.

B. *Motion for Extension of Time and Appeal*

[16] On September 29, 2021, the Plaintiff filed the present motion for an extension of time to file an appeal pursuant to Rule 8 and an appeal of the Order pursuant to Rule 51 of the *Federal Courts Rules* [Rules]. The 1170-page Motion Record contains a Notice of Motion, an affidavit from the Plaintiff along with exhibits thereto, an affidavit of Mr. Jorge Felino Pereira, written representations, and a list of authorities. In his written representations, the Plaintiff grouped his arguments under the following headings:

- A. There Was a Conspiracy to Defraud the Plaintiff
- B. The Parties on July 23, 2020, are Conspirators to Treason
- C. The Rogue Agents of Innovation Credit Union Have Strong Motive
- D. The Court of Queen's Bench for Saskatchewan or any Other Associated Party Has Failed to Comply with the UN Torture Convention
- E. The Conspirators in the United States Courts and Other Agencies Have Demonstrated Actions That are Consistent With Treason Against the United States
- F. The Trans-National Invariable Pursuit of the Object

[17] The Plaintiff's conclusion in the written representations is as follows:

Without this *Motion to Extend* and appeal granted, it will allow the extreme prejudice demonstrated by the defendants and Prothonotary Mirelle Tabib, and the conspirators on Canada and the United States to effectively use the courts to commit crimes and silence the Appellant, to violate the constitution, commit treason, and torture the Appellant.

[18] The Defendants did not file a responding motion record.

[19] During the hearing of the motion, the Plaintiff made numerous submissions. The thrust of the Plaintiff's oral argument, as it related to the Order, is that by scheduling the deadlines for various steps to be taken prior to the hearing of the s. 40 Motion, Prothonotary Tabib is causing "extreme prejudice", "sanctioning crimes against humanity", "sanctioning criminal activity", and permitting "tyranny and totalitarianism to exist in Canada". In short, the Plaintiff submits that Prothonotary Tabib should not be permitting the s. 40 Motion to proceed, and consequently, should not have issued the Order.

[20] In response, counsel for two of the Defendants made submissions. The Defendants submitted that the Plaintiff has not demonstrated a basis upon which to overturn the Order.

II. Issues

[21] The issues are:

- A. whether the Plaintiff should be granted an extension of time to serve and file his appeal of the Order; and
- B. whether Prothonotary Tabib erred in law or committed a palpable and overriding error in (i) scheduling timelines for the service and filing of records in the s. 40 Motion and a further case management conference, and (ii) suspending all other proceedings in the action until further notice or direction of the Court?

III. Analysis

A. *Extension of Time*

[22] Pursuant to Rule 51(2) of the *Rules*, the Notice of Motion ought to have been filed within ten (10) days after the day upon which the Order was rendered. Rule 51 provides as follows:

APPEAL

51 (1) An order of a prothonotary may be appealed by a motion to a judge of the Federal Court.

Service of appeal

(2) Notice of the motion shall be served and filed within 10 days after the day on which the order under appeal was made and at least four days before the day fixed for the hearing of the motion.

APPEL

51 (1) L'ordonnance du protonotaire peut être portée en appel par voie de requête présentée à un juge de la Cour fédérale.

Signification de l'appel

(2) L'avis de la requête est signifié et déposé dans les 10 jours suivant la date de l'ordonnance frappée d'appel et au moins quatre jours avant la date prévue pour l'audition de la requête.

[23] Recognizing that the Plaintiff is self-represented, spent approximately four (4) months in detention in the United States, and had his computers returned to him on September 18, 2021, I am prepared to accept, pursuant to Rule 55 of the *Rules*, that special circumstances existed and the Court may consider the motion to appeal on its merits.

[24] Furthermore, I am guided by the Federal Court of Appeal in *Alberta v Canada*, 2018 FCA 83:

[44] In *Canada (Attorney General) v Hennelly* (1999), 1999 CanLII 8190 (FCA), 244 NR 399 (FCA) (Hennelly), this Court listed four questions relevant to the exercise of discretion to allow extension of time under Rule 8:

- (1) Did the moving party have a continuing intention to pursue the proceeding?
- (2) Is there some merit to the proceeding?
- (3) Has the defendant been prejudiced from the delay?
- (4) Does the moving party have a reasonable explanation for the delay?

[45] These questions are helpful to determine whether the granting of an extension is in the interest of justice, because the overriding consideration or the real test is ultimately that justice be done between the parties (*Grewal v Minister of Employment and Immigration*, [1985] 2 FCR 263 at 277-279 (FCA)). Thus, Hennelly does not provide an extensive list of questions or factors that may be relevant in any given case, nor is the failure to give a positive response to one of the four questions referred to above necessarily determinative (*Canada (Attorney General) v Larkman*, 2012 FCA 204, at para. 62). [Emphasis added]

[25] In the present matter, the Plaintiff evidenced a continuing intension to pursue the proceeding and provided a reasonable explanation for the delay. The Defendants have not provided evidence of prejudice on their part by reason of the delay. Three of the four questions above have therefore been answered in the positive. As to the question of the merits of the appeal, this is addressed in Section III.C of this Order and Reasons below.

B. *Standard of Review for the Merits of the Appeal*

[26] The Federal Court of Appeal instructs that “discretionary orders of prothonotaries should only be interfered with when such decisions are incorrect in law or are based on a palpable and overriding error in regard to the facts” (*Hospira Healthcare Corporation v Kennedy Institute of Rheumatology*, 2016 FCA 215, at para 64 [*Hospira*]).

[27] The Federal Court of Appeal, in *Canada v South Yukon Forest Corporation*, 2012 FCA 165, further instructs that to establish a palpable and overriding error one must demonstrate an error that goes to the very outcome of the case:

[46] Palpable and overriding error is a highly deferential standard of review: *H.L. v. Canada (Attorney General)*, 2005 SCC 25, [2005] 1 S.C.R. 401; *Peart v. Peel Regional Police Services* (2006) 2006 CanLII 37566 (ON CA), 217 O.A.C. 269 (C.A.) at

paragraphs 158-59; Waxman, supra. “Palpable” means an error that is obvious. “Overriding” means an error that goes to the very core of the outcome of the case. When arguing palpable and overriding error, it is not enough to pull at leaves and branches and leave the tree standing. The entire tree must fall.

[28] Moreover, as stated by my colleague Justice Little, on a Rule 51 appeal “a case management judge is assumed to be very familiar with the particular circumstances and issues in a proceeding” and their “decisions are afforded deference, especially on factually-suffused questions” (*Hughes v. Canada (Human Rights Commission)*, 2020 FC 986 at para 67).

C. *Has the Plaintiff Established an Error with the Order?*

[29] I find there was no palpable and overriding error in the Order and, consequently, no basis upon which for this Court to intervene. Prothonotary Tabib, as the case management judge, managed the proceedings and exercised her discretion in accordance with Rule 385(1)(a) of the

Rules:

<p>385 (1) Unless the Court directs otherwise, a case management judge or a prothonotary assigned under paragraph 383(c) shall deal with all matters that arise prior to the trial or hearing of a specially managed proceeding and may</p> <p>(a) give any directions or make any orders that are necessary for the just, most expeditious and least expensive determination of the proceeding on its merits;</p>	<p>385 (1) Sauf directives contraires de la Cour, le juge responsable de la gestion de l’instance ou le protonotaire visé à l’alinéa 383c) tranche toutes les questions qui sont soulevées avant l’instruction de l’instance à gestion spéciale et peut :</p> <p>a) donner toute directive ou rendre toute ordonnance nécessaires pour permettre d’apporter une solution au litige qui soit juste et la plus expéditive et économique possible;</p>
--	---

[30] The Plaintiff was present and participated in the case management conference that lead to the schedule contained in the Order. The Order certainly fell well within the discretion of Prothonotary Tabib, and she is owed considerable deference for orders of this nature.

[31] The Plaintiff's objections to the Order are rooted in the fact that steps have been scheduled that will ultimately lead to the hearing of the s. 40 Motion. As mentioned by the Court during the hearing of this appeal, the Plaintiff is free to oppose the s. 40 Motion and will have the opportunity to voice his opposition thereto in his responding motion record and at the hearing of the s. 40 Motion.

IV. Conclusion

[32] Prothonotary Tabib did not make an error on a question of law or make a palpable and overriding error on a question of fact or mixed fact and law. For these reasons, the Plaintiff's appeal under Rule 51 from the Order dated August 31, 2021, is dismissed.

[33] The Defendants have not requested costs, and none shall be awarded.

ORDER in T-1404-20

THIS COURT ORDERS that:

1. The Plaintiff's appeal under Rule 51 of the *Federal Courts Rules* from the Prothonotary Tabib's Order dated August 31, 2021, is dismissed;
2. No costs are awarded.

"Vanessa Rochester"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1404-20

STYLE OF CAUSE: DALE RICHARDSON v SEVENTH-DAY
ADVENTIST CHURCH, CIVILIAN REVIEW AND
COMPLAINTS COMMISSION, GRAND LODGE OF
SASKATCHEWAN, COURT OF APPEAL FOR
SASKATCHEWAN, J.A CALDWELL, UNITED
STATES CITIZENSHIP AND IMMIGRATION
SERVICES, U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT, U.S. CUSTOMS AND BORDER
PROTECTION, U.S. DEPARTMENT OF HOMELAND
SECURITY, CORECIVIC, DEREK ALLCHURCH,
ROYAL CANADIAN MOUNTED POLICE,
CONSTABLE BURTON ROY, BATTLEFORDS
SEVENTH-DAY ADVENTIST CHURCH, JAMES
KWON, MAZEL HOLM, GARY LUND, DAWN
LUND, CIPRIAN BOLAH, JEANNIE JOHNSON,
MANITOBA-SASKATCHEWAN CONFERENCE,
MICHAEL COLLINS, MATRIX LAW GROUP,
CLIFFORD HOLM, PATRICIA J. MEIKLEJOHN,
CHANTELLE THOMPSON, JENNIFER SCHMIDT,
MARK CLEMENTS, CHAD GARTNER, BRAD
APPEL, IAN MCARTHUR, BRYCE BOHUN, KATHY
IRWIN, JASON PANCHYSHYN, CARY RANSOME,
SASKATCHEWAN HEALTH AUTHORITY, DR.
ALABI, RIKKI MORRISSON, CORA SWERID, DR.
ELEKWEM, DR. SUNDAY, COURT OF QUEEN'S
BENCH FOR SASKATCHEWAN, JILL COOK, GLEN
METIVER, JUSTICE R.W. ELSON, JUSTICE
CROOKS, OWZW LAWYERS LLP, VIRGIL A.
THOMSON, PROVINCIAL COURT OF
SASKATCHEWAN, HONOURABLE JUDGE M.
PELLETIER, RAYMOND HEBERT, LINDA HEBERT,
EMI HOLM, CHAR BLAIR, COMMUNITY FUTURES,
LISA CIMMER and KIMBERLEY RICHARDSON

PLACE OF HEARING: MONTRÉAL, QUÉBEC – BY VIDEOCONFERENCE

DATE OF HEARING: OCTOBER 13, 2021

ORDER AND REASONS: ROCHESTER J.

DATED: OCTOBER 20, 2021

APPEARANCES:

Dale Richardson	SELF REPRESENTED
Me Bruce Comba	FOR THE DEFENDANT DEREK ALLCHURCH
Me Justin Stevenson	FOR THE DEFENDANT JILL COOK, GLEN METIVIER, HONOURABLE JUDGE PELLETIER etc.
Me Virgil Thomson	FOR THE DEFENDANT AGC (REPRESENTING RCMP AND CNST ROY)
Me Chantelle Eisner and Amanda Kimpinksi	FOR THE DEFENDANT SASKATCHEWAN HEALTH AUTHORITY AND CORA SWERID
Me Marie K. Stack and Laura Sayer	FOR THE DEFENDANT JUSTICE R.W. ELSTON
Me Annie M. Alport	FOR THE DEFENDANT SEVENTH-DAY ADVENTIST CHURCH, JAMES KWON, MAZEL HOLM ETC.
Me Healthier J. Laing	FOR THE DEFENDANTS JUSTICE CROOKS AND JUSTICE CALDWELL

SOLICITORS OF RECORD:

Dale Richardson	SELF REPRESENTED
North Battleford SK	
Emery Jamieson LLP	FOR THE DEFENDANT DEREK ALLCHURCH
Edmonton, Alberta	
Attorney General of Canada	FOR THE DEFENDANT JILL COOK, GLEN METIVIER, HONOURABLE JUDGE PELLETIER etc.
Regina, SK	
Olive Waller Zinkhan Waller LLP	FOR THE DEFENDANT AGC (REPRESENTING RCMP AND CNST ROY)
Regina SK	
McDougall Gauley LLP	FOR THE DEFENDANT SASKATCHEWAN HEALTH AUTHORITY AND CORA SWERID
Saskatoon SK	
McKercher LLP	FOR THE DEFENDANT JUSTICE R.W. ELSTON
Saskatoon SK	
Miller Thomson LLP	FOR THE DEFENDANT SEVENTH-DAY ADVENTIST CHURCH, JAMES KWON, MAZEL HOLM ETC.
Calgary, Alberta	
McDougall Gauley LLP	FOR THE DEFENDANTS JUSTICE CROOKS AND JUSTICE CALDWELL
Saskatoon SK	