Federal Court  Cour fédérale

Date: 20220704

Docket: T-1312-21

Citation: 2022 FC 978

Ottawa, Ontario, July 4, 2022

PRESENT: The Honourable Madam Justice McVeigh

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

Applicant

and

ANTHONY HICKS

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is an application brought by the Attorney General of Canada [AGC] pursuant to subsection 40(1) of the *Federal Courts Act* (R.S.C., 1985, c. F-7) for an order declaring the Respondent, Anthony Hicks ("Mr. Hicks") a vexatious litigant.

II. Background

[2] The Applicant's evidence has recounted the factual matrix of this proceeding at great length. I will not strive to replicate it in full but rather to provide a summary.

[3] The Respondent represented himself in this matter and was respectful to the Court. However, I do note that several comments directed to the Applicant's counsel were not based on any evidence, and were manifestly false and inappropriate. Mr. Hicks was reminded that counsel was an advocate for his client, and that such a matter should not be personal. I applaud counsel for enduring these comments, maintaining his decorum, and "turning the other cheek".

[4] In essence, since 2014, Mr. Hicks has commenced a number of legal proceedings before various courts and tribunals. Many of these relate to his former employment as a personal trainer at GoodLife Fitness Centres Inc. ("GoodLife"), while many others have been brought against the AGC and various other parties. He has been before this Court, the Federal Court of Appeal, Ontario Superior Court and other tribunals many times.

A. *Ontario Superior Court of Justice Proceedings*

[5] In 2019, the Ontario Superior Court of Justice [ONSC], by decision of Madam Justice Corthorn on September 11, 2019, declared Mr. Hicks a vexatious litigant pursuant to subsection 140(1) of the *Courts of Justice Act*, RSO 1990, c C.43 on application by GoodLife. The Order prohibits Mr. Hicks from instituting any proceedings either directly or indirectly before the ONSC without first obtaining leave of a judge of that Court. Later, on December 7, 2020, Mr.

Hicks was sentenced by Mr. Justice D.L. Corbett of the ONSC Divisional Court to eight days' time served in a provincial correctional facility for civil contempt of court, by reason of Mr. Hicks' repeated violations of the September 11, 2019 Order declaring him to be a vexatious litigant.

B. *Human Rights Tribunal of Ontario Proceedings*

[6] Mr. Hicks was also declared a vexatious litigant by the Human Rights Tribunal of Ontario [HRTO] after eight unsuccessful proceedings were brought before them. In *Hicks v St-Pierre*, 2019 HRTO 146, the HRTO noted that Mr. Hicks' "allegations against individual lawyers are not brought for the purpose of asserting legitimate rights but are intended to harass them… (he) persistently seeks reconsideration of Tribunal decisions which do not meet the basic requirements for reconsideration. Fundamentally, having regard to the entire history of the applications filed since 2014, it is clear that the applicant continues to file applications for a purpose other than to vindicate legitimate allegations of human rights violations which fall within the jurisdiction of this Tribunal."

C. *Federal Court and Federal Court of Appeal Proceedings*

[7] Mr. Hicks has commenced numerous proceedings before the Federal Court and Federal Court of Appeal. Specifically, 10 matters before the Federal Court [FC] and 4 before the Federal Court of Appeal [FCA].

[8] In FC File T-401-19, Mr. Hicks commenced an application for judicial review in the FC, naming the AGC as a Respondent and seeking to challenge an administrative decision made by the HRTO. On March 20, 2019, counsel for the HRTO wrote to the FC seeking summary dismissal of the application on the basis that the FC lacks jurisdiction to review its decisions. On April 18, 2019, Justice Southcott ordered the application dismissed without leave to amend on the basis that it is plain and obvious that the FC lacks jurisdiction over the decisions of a provincial tribunal such as the HRTO.

[9] FC File T-1401-19 (which would become FCA File A-432-19), Mr. Hicks filed a Notice of Application for judicial review to challenge a decision of the Canadian Human Rights Commission [CHRC]. On September 16, 2019, the CHRC brought a motion to strike the Notice of Application on the basis that its July 29, 2019 letter to Mr. Hicks was not a "decision" for the purposes of s. 18.1 of the *Federal Courts Act* and was therefore not appropriately the subject of an application for judicial review. Justice Elliott granted this motion on November 8, 2019 and struck the Notice of Application in its entirety, finding that the CHRC's letter dated July 29, 2019 was not a "decision" that could properly be the subject of an application for judicial review. Justice Elliott also ordered costs against Mr. Hicks in the amount of $500. On November 19, 2019, Mr. Hicks then filed a Notice of Appeal in relation to this, becoming FCA File A-423-19. The CHRC identified defects in this on November 28, 2019 and noted this in a letter to the FCA. On December 12, 2019, Justice Stratas ordered the Notice of Appeal removed and directed a new one be filed within 30 days. This was filed on December 24, 2019, and in an Order dated January 13, 2020, a panel of the FCA found it to be almost identical to the previously struck one and dismissed the appeal.

[10] On October 31, 2018 and November 1, 2018, Mr. Hicks filed applications for judicial review (FC Files T-1912-18 and T-1915-18) in respect of a decision of the CHRC to dismiss a human rights complaint he had made against United Parcel Service. These matters were dismissed for delay by Justice Favel on June 28, 2019.

[11] On November 1, 2018, Mr. Hicks commenced an application for judicial review regarding a decision by the Ontario Labour Relations Board [OLRB] wherein he named the OLRB and the AGC as Respondents. The Respondents brought a joint motion to strike this application on the basis that it is plain and obvious that the FC is not the proper forum to challenge a decision of a provincial tribunal such as the OLRB. Mr. Hicks did not file a reply to the motion pursuant to Rule 369(4), but instead sent a letter which Justice Elliott described as containing "only a bald statement of opposition to the Motion and two brief comments about the Ontario Labour Relations Board." Justice Elliott allowed the joint motion and ordered the application struck in its entirety without leave to amend, and ordered costs of $500 to both parties.

[12] On July 4, 2018, Mr. Hicks filed a Notice of Application (FC File T-1295-18, and later FCA File A-270-18) for judicial review purporting to challenge a decision of Justice Beaudoin of the ONSC in *Hicks v GoodLife Fitness Centres Inc*, 2018 ONSC 3858. In that case, the ONSC summarily dismissed an action brought by Mr. Hicks against GoodLife, the HRTO and the Ontario Ministry of Labour as out of time. Justice Grammond dismissed this proceeding without leave to amend, and explained that the HRTO and the Ontario Ministry of Labour are bodies constituted pursuant to Ontario provincial laws, and thus, since neither is a "federal board,

commission or other tribunal" pursuant to the *Federal Courts Act*, the Federal Court has no jurisdiction over these entities. On September 11, 2018, Mr. Hicks filed a Notice of Appeal of the FC's decision in Court File T-1295-18. The Notice of Appeal contained allegations stating that that counsel for the OLRB "misdirected" the Applicant as to the procedure he ought to follow (FCA File A-270-18). On December 18, 2018, Justice Stratas ordered the appeal summarily dismissed with costs payable by Mr. Hicks in the amount of $250.

[13] On September 15, 2020, Mr. Hicks filled a Notice of Application for judicial review seeking to challenge a decision of the CHRC. The application was supported by a 17-page affidavit containing allegations against the Department of Justice Canada, the Ottawa Police, GoodLife, members of the Ontario Bar, members of the judiciary, and many others (FC File T-1216-20). This matter was discontinued on February 7, 2022.

[14] On March 23, 2021, Mr. Hicks commenced an application for judicial review under FC File T-515-21, naming the Royal Canadian Mounted Police as Respondent. Submissions made reference to, among other things, Mr. Hicks belief that he was being "financially starved out by the Crown." Justice Lafreniere ordered this proceeding dismissed for delay on November 4, 2021. In his Order, Justice Lafreniere described an affidavit filed by Mr. Hicks on October 1, 2021, as relating to Mr. Hicks' "quixotic quests for justice, tilting at bizarre and imagined conspiracies by disparate actors." The Applicant filed a Notice of Appeal on December 7, 2021 (FCA File A-340-21). This appeal was dismissed by Justice Stratas of the FCA (in conjunction with three of Mr. Hicks' other appeals) on January 4, 2022.

[15] On September 22, 2021, Mr. Hicks commenced an application for judicial review (T-1358-21) naming Transport Canada as Respondent, but seeking to challenge a decision rendered by the Ministère des transports (Quebec). Mr. Hicks also sought a declaration that the fleur-de-lis symbol be removed from his driver's license and vehicle license plate. On October 22, 2021, the AGC brought a motion to strike this application in its entirety for the FC's lack of jurisdiction. On November 4, 2021, Justice Lafreniere agreed and granted this relief, noting that the application did not seek any remedy or advance any allegation against Transport Canada, and that "the proceeding is plainly bereft of any possibility of success". He also ordered Mr. Hicks to pay all-inclusive costs of $500 to the AGC.

[16] The AGC commenced the present proceeding by way of Notice of Application on August 25, 2021. The AGC arranged for Mr. Hicks to be served with the Notice of Application by Canada Post registered mail pursuant to Rule 128(1)(e) of the *Federal Courts Rules*, and Canada Post confirms that it was sent to the mailing address Mr. Hicks provided. The AGC has made attempts to confirm that Mr. Hicks received it, including sending an email to Mr. Hicks requesting that he sign and return an attached Acknowledgement of Service confirming that he had received a copy of the AGC's Notice of Application. In response, Mr. Hicks claimed that his "new antivirus won't allow attachments from the DOJ." On September 21, 2021, Mr. Hicks sent an email to the AGC counsel which attached pictures of the Notice of Application.

[17] On September 22, 2021, Mr. Hicks served a Notice of Appearance on the AGC by email. On October 4, 2021, the AGC sought, by way of informal motion, an Order validating service of the AGC's Notice of Application on Mr. Hicks, based on his email of September 21, 2021 which

attached pictures of same, and on the further basis that Mr. Hicks had notice of the proceeding given he filed a Notice of Appearance on September 22, 2021. Mr. Hicks attempted to file a "statement of defence and counterclaim" in response to the AGC's Notice of Application on September 27, 2021. In a Direction dated September 27, 2021, Prothonotary Tabib rejected these documents for filing on the ground that they were not contemplated by the *Federal Courts Rules* in a proceeding brought by way of application.

[18] Mr. Hicks sought leave to appeal Prothonotary Tabib's Direction. On October 1, 2021, Madam Justice Kane issued a Direction confirming Prothonotary Tabib's September 27, 2021 Direction. Justice Kane noted that Prothonotary Tabib's Direction was not subject to appeal given that Rule 189(1) only contemplates a defence and counterclaim in the context of an action, and not an application for judicial review.

D. *Communications with Counsel*

[19] It is also worth noting Mr. Hicks' communications with counsel for the AGC. He has, as noted by the Applicant, sent numerous correspondences and other communications accusing counsel (and a number of other parties) of various wrongs and crimes against him. The Applicant has produced select instances of these, noting that the offending correspondences are too numerous to submit in totality, but they represent persistent abuses directed toward various members of the legal community, often with upwards of 5-7 emails within hours of each other variously threatening criminal proceedings, requesting nonsensical depositions, and criticizing the competence of all involved. For instance, "You so called lawyers and judges pass these decisions and tell these lies in court and don't have the self respect to back it up, it's very

cowardice and lacks backbone. The legal skills are laughable of everyone involved, I sat at your table played your ridiculous game with my crayons and won" (April 21, 2021 email). There are numerous instances of such emails, including beliefs that Prime Minister Justin Trudeau and Minister of Justice David Lametti are engaged in a conspiracy against Mr. Hicks.

E. *Unpaid Cost Order*

[20] There were various cost awards mentioned in the procedural histories above, and it is the Applicant's submission that Mr. Hicks currently owes $1,250 in outstanding costs awarded in favour of the AGC.

III. Issue

[21] The issue is whether an order declaring the Respondent to be a vexatious litigant is warranted.

IV. Analysis

A. *Relevant Statutory Framework*

[22] The relevant statutory provision for a declaration of vexatious litigant status is s. 40 of the *Federal Courts Act*, which reads as follows:

Vexatious proceedings	**Poursuites vexatoires**
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	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

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.	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.

[23] As per s. 40(2) of the *Federal Courts Act*, an application under s. 40(1) may only be made with the consent of the AGC. As stated by the Applicant, this consent may be provided by a departmental officer who acts in an appropriate capacity (*Figueroa v Canada (Attorney General)*, 2019 FC 505 at para 17). In this case, the Applicant relies on the consent of Acting Assistant Deputy Attorney General for this application asking the Court to declare Mr. Hicks a vexatious litigant.

[24] It is helpful to know why this provision exists and Justice Stratas explored that in *Olumide v Attorney General*, 2017 FCA 42 at paragraphs 17-20 [*Olumide*]:

> Section 40 reflects the fact that the Federal Courts are community property that exists to serve everyone, not a private resource that can commandeered in damaging ways to advance the interests of one. As community property, courts allow unrestricted access by default: anyone with standing can start a proceeding. But those who misuse unrestricted access in a damaging way must be restrained. In this way, courts are no different from other community properties like public parks, libraries, community halls and museums. The Federal Courts have finite resources that cannot be squandered. Every moment devoted to a vexatious litigant is a moment unavailable to a deserving litigant. The unrestricted access to courts by those whose access should be restricted affects the access of others who need and deserve it. Inaction on the former damages the latter. This isn't just a zero-sum game where a single vexatious litigant injures a single innocent litigant. A single vexatious litigant gobbles up scarce judicial and registry resources, injuring tens or more innocent litigants. The injury shows itself in many ways: to name a few, a reduced ability on the part of the registry to assist well-intentioned but needy self-represented litigants, a reduced ability of the court to manage proceedings

> needing management, and delays for all litigants in getting hearings, directions, orders, judgments and reasons.

[25] The FCA in *Simon v Canada (Attorney General),* 2019 FCA 28 [*Simon*], usefully summarized and refined the framework applicable to declaring a person a vexatious litigant. As stated in *Olumide*, the primary consideration supporting such declarations is ensuring the respect of the finite resources of courts as community property (paras 17-19). Where litigants repeat or will likely repeat their behaviour and harm to other litigants, while flouting court rules and orders and resuscitating struck claims, a vexatious litigant declaration may be necessary (*Simon* at paras 10, 14). In addition, where the litigants cause harm to opposing parties by draining their resources through "unmeritorious or duplicative litigation", the Court may be required to intervene (*Simon* at para 15).

[26] In *Simon*, the FCA usefully drew a line between vexatious litigants and unrepresented litigants who may need extra attention and assistance by asking the following question: "does the litigant's ungovernability or harmfulness to the court system and its participants justify a leave-granting process for any new proceedings?" (*Simon* at para 18).

[27] The Applicant bears the onus of proving that the opposing party should be declared vexatious. This burden may be significantly reduced if there is evidence that another jurisdiction has already declared the litigant to be vexatious (*Simon* at para 20). As stated in *Olumide*, at paragraph 37: "other courts' findings of vexatiousness under similarly-worded provisions can be imported into later applications against the same litigant and can be given much weight".

[28] My role, then, in applying section 40, is to provide a safeguard for the public. By that, I mean that declaring a party a vexatious litigant under section 40 does not deprive the party of the possibility of justice, but is rather a realistic balancing of their right to access justice versus that of the general public, who are deprived by persistent abuses. A vexatious litigant may still access the courts by bringing a proceeding, but only if the courts grant leave.

[29] A declaration that a litigant is vexatious does not bar the litigant's access to the courts, but rather *regulates* this access in a manner that realistically considers the resource-based constraints involved. A declaration under s. 40(1) does not prevent or deprive an affected individual of his or her legal rights, but simply enables the Court to screen new proceedings commenced by that individual to prevent the disproportionate consumption of public resources on unmeritorious litigation.

B. *Is Mr. Hicks a vexatious litigant?*

[30] The Applicant in this case bears the onus of proving that Mr. Hicks should be declared vexatious. As noted earlier, this burden may be significantly reduced if there is evidence that another jurisdiction has already declared the litigant to be vexatious (*Simon* at para 20). As stated in *Olumide*, at paragraph 37: "other courts' findings of vexatiousness under similarly-worded provisions can be imported into later applications against the same litigant and can be given much weight".

[31] Mr. Hicks has been declared a vexatious litigant in the Ontario Superior Court as well as in the HRTO (see above paras 5, 6) including being sentenced to eight days detention for not complying with an order.

[32] The fact Mr. Hicks has been declared vexatious in other jurisdictions I will weight as a positive factor in my determination of whether he is a vexatious litigant in this Court.

[33] The Applicant submits that an order declaring Mr. Hicks a vexatious litigant is warranted as they have met their burden. In addition to the noted vexatious litigant declarations from other bodies, they submit that it is warranted due to Mr. Hicks' meritless proceedings, failure to diligently advance such proceedings, his extreme allegations and behaviour, and his outstanding cost awards. I will consider each of these in turn, though any of them could lead to a person being declared vexatious.

(1) Meritless Proceedings

[34] The Applicant states that Mr. Hicks continuously commences meritless proceedings, despite knowing and having been told that they are indeed meritless. For instance, Mr. Hicks filed four applications for judicial review despite the fact that the FC lacks jurisdiction over such decisions; these include an attempt to challenge decisions of the HRTC (T-401-19), Ontario Labour Relations Board and Ontario Ministry of Labour (T-1295-18 and A-270-18), Ministère des transports (Quebec) (T-1358-21), and Ontario Superior Court (T-1295-18 and A-270-18). The former three of these occurred after Justice Grammond's August 30, 2018 Order in T-1295-18, clearly emphasizing that the FC does not have jurisdiction in respect of decisions of

provincial courts and tribunals, which was emphasized as “indisputably correct” by Justice Stratas in his decision summarily dismissing Mr. Hicks’ appeal.

[35] Mr. Hicks in his oral submissions argued that the proceedings are not meritless, and that his matter is being dealt by the Supreme Court of Canada regarding GoodLife owing him $20,000 in back pay or severance. In essence, his position is that all of this should wait until the Supreme Court of Canada makes a final decision, and then it will be clear the proceedings he has started will be successful. He also indicated that the applications also relate to him being told his SIN is not valid.

[36] Additionally, in oral argument, Mr. Hicks indicated that false evidence had continually been given against him in Court. As such, he asked for all the evidence before Justice Grammond and Justice Stratas (who he referred to as “being kind of frosty”) to be struck for being false. Indeed, Mr. Hicks’ conclusion is that his proceedings are all justified, that the Applicant knows this, and that they are the vexatious litigants for bringing this application. He indicated it is not his job to babysit the Court. He asserts that his applications are constitutional questions, and the FC should have jurisdiction. Further, he feels his case is strong involving removing the fleur-de-lis from his Quebec licence plate and drivers license, as well as regarding his SIN issues and his reporting of the Department of Justice to the CRA and the police, which he notes are criminal matters and should be dealt with by this Court.

[37] Mr. Hicks did not present any evidence of any of his proceedings being before the Supreme Court of Canada. In any event, it does not logically flow that the matters started in our

Court would have any merit given the jurisdictional issues, even if he was before the Supreme Court of Canada and he was successful given the subject matter is related to an employment issue with a former employer.

[38] I find that by continuing to commence judicial review proceedings in respect of decisions made by provincial entities, despite being made aware in very clear terms that this Court lacks jurisdiction over such decisions, amounts to vexatious behaviour that must be addressed using the means provided by s. 40. Justice Grammond explained to Mr. Hicks, in great detail, why our Court was not the proper Court for his proceedings. Yet, he continues to ignore the decision of this Court that we have no jurisdiction over the areas of law and continues to file meritless claims. In doing so he has repeatedly ignored and refused to listen to court orders and decisions. This behaviour fits within the test for vexatious litigant status.

(2) Failure to Diligently Advance Proceedings

[39] The Applicant presented evidence that Mr. Hicks repeatedly commences proceedings and subsequently fails to advance them in a diligent manner. This frequently leads to the proceedings being dismissed due to delay, or coming to a standstill while waiting for him to take steps to advance them. The Applicant argued that this is further evidence of Mr. Hicks' disregard for, and misappropriation of, judicial resources.

[40] The Applicant notes four instances of this by Mr. Hicks. First and second, in T-1912-18 and T-1915-18, applications for judicial review in respect of a decision by the CHRC to dismiss a human rights complaint he made against United Parcel Service, Justice Favel ordered both

proceedings dismissed for delay following Mr. Hicks' failure to file materials in response to Notices of Status Review issued pursuant to Rule 380(2) of the *Federal Courts Rules.* Third, in T-1216-20, Mr. Hicks filled a Notice of Application for judicial review seeking to challenge a decision of the CHRC. This matter was discontinued nearly two years later on February 7, 2022 after little progress was made. Fourth, in T-515-21, Mr. Hicks commenced an application for judicial review on March 23, 2021 naming the Royal Canadian Mounted Police as Respondent. A little under 8 months later, on November 4, 2021, Justice Lafreniere ordered the proceeding dismissed for delay due to a lack of materials from Mr. Hicks.

[41] Mr. Hicks' response to this argument was sparse, and much the same as the first argument. He noted that he is waiting for the Supreme Court of Canada to make their decision (in the matter he stated was before them, which, as noted, there is no evidence to support this allegation) and then he can advance his matters. He also submitted that much of the blame fell at the feet of those on the receiving end of his claims, though he did not provide evidence as to how. He claimed – without supporting evidence – that that he was denied legal counsel, and that if he were to have had legal counsel he could have advanced these matters. He stated he should have been represented on some of the other court proceedings, but did not indicate which, nor did he assert in any way that he needed representation in the instant case.

[42] A litigant's repeated failure to prosecute proceedings with diligence amounts to vexatious behaviour per *Canada v Nourhaghighi*, 2014 FC 254 at paragraph 47. Further, commencing various proceedings and not pursuing them diligently is a mark against a litigant in terms of their attitude toward, and treatment of, the legal system. The legal system is not, and ought not to be, a

place where an applicant may begin a proceeding solely for the purpose of harassing and bothering others, only to not follow through in any meaningful sense, leading to the proceeding being dismissed for delay or discontinued. Resources are consumed when this happens. Resources are finite, and as Justice Stratas remarked, each litigant who is permitted to abuse the system equates to one less deserving litigant who is able to use the system for justice. Mr. Hicks' behaviour has clearly demonstrated that he is the former. Thus, I am of the view that his failure to diligently advance proceedings is another factor in favour of declaring Mr. Hicks to be a vexatious litigant.

(3) Extreme Allegations

[43] Lastly, the Applicant submits that Mr. Hicks ought to be deemed a vexatious litigant due to the nature of his allegations. They deem his allegations against counsel, parties, and court staff to be extreme and implausible.

[44] The Applicant points to the HRTO's decision declaring Mr. Hicks vexatious, wherein they commented that his "allegations against individual lawyers are not brought for the purpose of asserting legitimate rights but are intended to harass them." They also note that in her September 11, 2019 order declaring Mr. Hicks a vexatious litigant in that court, Justice Corthorn of the ONSC noted the subject matter and volume of Mr. Hicks' communications with court and tribunal staff, counsel, and opposing parties to be "of significant concern" and "part of an overall strategy of abuse and harassment." In *Canada Post Corp v Varma,* [2000] FCJ No 851 (FC) at paragraphs 22-24, it was held that a litigant's behaviour both "…in and out of the court is relevant" (para 23) in determining whether they are a vexatious litigant.

[45] As commented on by these other legal bodies, I also note that there are numerous instances in evidence of Mr. Hicks abusing various parties ranging from Prime Minister Justin Trudeau, Minister of Justice David Lametti, counsel for the Applicant. I am doubtlessly sure that there exist countless more instances of this that were not submitted. This behaviour is not isolated. Rather, as evidenced by similar findings in vexatious litigant declarations by ONSC and HRTO, it forms a pattern (though, as noted by Justice Stratas in *Olumide* at para 25, it does not need to, as a litigant's misbehaviour in just a single proceeding can result in section 40 remedies). Regardless, it is clear that Mr. Hicks' behaviour and treatment of both the legal system and those who take part in it constitutes vexatious behaviour.

(4) Outstanding Cost Awards

[46] The Applicant noted that Mr. Hicks owes $1,250 in outstanding cost awards in favour of the AGC. His failure to pay these costs constitutes non-compliance with court orders, one of the considerations for vexatious litigant status outlined by Justice Stratas at paragraph 22 of *Olumide.* This provides further justification for a declaration that he is a vexatious litigant.

[47] The Applicant seeks that Mr. Hicks be ordered to pay their outstanding costs before they are allowed to proceed with any applications.

[48] It is worth recognizing that under Rule 416 of the *Federal Courts Rules*, the Applicant could have brought a motion for security from Mr. Hicks for the unpaid costs. Under s. 416(3), Mr. Hicks would thus have been unable to take any further step in the action until the security

required was given. Counsel did not rely on this rule for the remedy and they instead rely on the general authority under s. 40.

[49] Mr. Hicks did not make meaningful submissions on this point.

[50] I will award costs in this application in the amount of $50.00 given Mr. Hicks is self-represented and incarcerated. I will not order that he has to pay his outstanding costs. I believe the relief sought may hamper his ability for access to justice if he is not able to bring his leave application. But there is still a safe guard given that as a vexatious litigant he will have to bring an leave application and having outstanding costs may be a factor for consideration for the leave judge. I leave that to the discretion of the leave judge. The outstanding costs remain and are collectable.

V. Conclusion

[51] The application is granted. The Respondent, Anthony Hicks, shall be declared a vexatious litigant. He shall not institute new proceedings, whether acting for himself or having his interests represented by another individual in this Court, except by leave of this Court. All proceedings instituted by the Respondent in this Court and currently before this Court shall be stayed. The stay shall not be lifted and the proceedings shall not continue unless leave is granted by this Court. The Registry shall neither accept nor file any document of any kind from the Respondent unless it is a fully-compliant motion record filed under Rule 369 seeking leave to institute and/or continue proceedings in this Court. The Registry shall file a copy of the Court's

judgment and these reasons in all affected files and shall send a copy of same to the parties in those files.

JUDGMENT IN T-1312-21

THIS COURT'S JUDGMENT is that:

1. The Respondent, Anthony Hicks, is declared to be a vexatious litigant pursuant to s 40 of the *Federal Courts Act*, RSC 1985, c F-7. Anthony Hicks is barred from instituting new proceedings in this Court, whether acting on his own behalf or represented by another person, except by leave of the Court.

2. All proceedings instituted by the Respondent in this Court and currently before this Court shall be stayed. The stay shall not be lifted and the proceedings shall not continue unless leave is granted by this Court. The Registry shall neither accept nor file any document of any kind from the Respondent unless it is a fully-compliant motion record filed under Rule 369 seeking leave to institute and/or continue proceedings in this Court. The Registry shall file a copy of the Court's judgment and these reasons in all affected files and shall send a copy of same to the parties in those files

3. Costs are awarded to the Applicant in the amount of $50.00 payable forthwith by the Respondent.

"Glennys L. McVeigh"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

Taylor Andreas	FOR THE APPLICANT
Anthony Hicks	FOR THE RESPONDENT, ON HIS OWN BEHALF

SOLICITORS OF RECORD:

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