

Federal Court



Cour fédérale

Date: 20240808

Docket: T-24-19

Citation: 2024 FC 1242

Ottawa, Ontario, August 8, 2024

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

TANZIRUL ALAM

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

ORDER AND REASONS

I. Overview

[1] The Respondent brings a motion seeking an order for security for costs against the Applicant pursuant to Rules 415-417 of the *Federal Courts Rules*, SOR/98-106 (“Rules”), thereby preventing the Applicant from taking further steps in this matter if he does not provide the ordered security for costs within the time fixed by the Court.

[2] The Respondent submits that the Applicant owes \$5172.34 in costs due to the numerous applications, appeals, and orders where the Applicant has been subject to costs orders.

[3] For the reasons that follow, this motion is granted.

II. Analysis

A. *Facts and Issue*

[4] The Applicant is a former inmate of a federal penitentiary owing to convictions for various sexual offences who has launched several proceedings against the Respondent. The current proceeding is an application for judicial review in this Court, filed on January 7, 2019, challenging a decision of Correctional Service of Canada related to his involuntary transfer from Bowden Institution in Alberta to Matsqui Institution (*Alam v Canada (Attorney General)*, 2022 FC 833 (“*Alam I*”) at para 5).

[5] The sole issue in this motion is whether an order for security of costs against the Applicant ought to be granted pursuant to Rules 415-417 of the Rules.

B. *Legislative Framework*

[6] Rule 416(1)(f) of the Rules provides that the Court may order security for a defendant’s costs against a plaintiff if the defendant has an order against a plaintiff for unpaid costs. Rule 416(3) provides that a plaintiff may not take further steps in an action (aside from an appeal of

the security of costs order) until the security has been paid, unless the Court orders otherwise.

This includes applicants and respondents, and a defendant is *prima facie* entitled to security for costs when they have an unpaid costs order against a plaintiff (*Lavigne v Canada Post Corporation*, 2009 FC 756 at paras 64-65).

C. *The Respondent's Motion is granted*

[7] The Respondent submits that the Applicant owes at least \$5,000 in costs and seeks an order against the Applicant in the amount of \$2520. The Applicant does not object to the motion, but submits that the Court should limit the amount to no more than \$750. The Applicant submits that he was not in a position to pay the Respondent back owing to his immigration status, that he cannot afford to pay the requested security in full, and that he should be given 90 days to deposit the security.

[8] I agree with the parties that an order under Rules 416(1)(f) and 416(3) is warranted. An order for security for costs is granted against the Applicant and the Applicant is not permitted to take further steps in this proceeding until the security has been paid.

[9] I am mindful of the Applicant's explanation for why the requested amount ought not to be granted in full. I am also mindful, however, that the Applicant has launched many proceedings against the Respondent and has failed at various points to abide by this Court's procedures (see *Alam I* at paras 4-19).

[10] In my view, the Respondent is requesting a reasonable amount given the Applicant's history against the Respondent. The Respondent could ask for over \$5000 and very well be entitled to it under the Rules; instead, only \$2520 is sought. I agree with this amount. Given the Applicant's circumstances, however, the Court will provide him with 90 days to pay the security.

III. **Conclusion**

[11] The Respondent is granted an order for security for costs against the Applicant pursuant to Rules 415-417 of the Rules. The amount shall be \$2520. The Applicant is prohibited from taking further steps in this application until this security is paid.

ORDER in T-24-19

THIS COURT ORDERS that:

1. The Respondent is granted an order for security for costs against the Applicant in the amount of \$2520.
2. This amount shall be paid by no later than 90 days of this order.
3. The Applicant is not permitted to take any further steps in this action until such security is paid.

“Shirzad A.”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-24-19

STYLE OF CAUSE: TANZIRUL ALAM v THE ATTORNEY GENERAL OF CANADA

MOTION PURSUANT TO RULES 415-417 OF THE *FEDERAL COURTS RULES*

ORDER AND REASONS: AHMED J.

DATED: AUGUST 8, 2024

WRITTEN SUBMISSIONS BY:

Tanzirul Alam
(On his own behalf)

FOR THE APPLICANT

Benjamin Bertram

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Vancouver, British Columbia

FOR THE RESPONDENT