

Federal Court of Appeal



Cour d'appel fédérale

Date: 20191119

Docket: A-116-19

Citation: 2019 FCA 285

Present: NOËL C.J.

BETWEEN:

MINISTER ALFRED [FRED] POTVIN

Appellant

and

**JOHN D. ROOKE, GLENNYS L. MCVEIGH,
JAMES R. FARRINGTON, J.T. PROWSE, JODY WILSON-RAYBOULD,
A.R. ROBERTSON, ROGER CHAFFIN, BOB RITCHIE, PATRICIA WILSON,
KATHLEEN GANLEY, NAHEED NENSHI, CORINNE JAMIESON,
DARRYL RUETHER, MICHELLE SOMERS, and MARY T. MOREAU**

Respondents

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on November 19, 2019.

REASONS FOR ORDER BY:

NOËL C.J.

Federal Court of Appeal



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REASONS FOR ORDER

NOËL C.J.

[1] The Court is seized with a motion brought by John D. Rooke, Glennys L. McVeigh and Mary T. Moreau (hereafter the moving parties) pursuant to section 40 of the *Federal Courts Act*, R.S.C. 1985, c. F-7 for an order declaring the appellant a vexatious litigant and prohibiting him

from instituting further proceedings or from continuing proceedings previously instituted by him without leave of this Court and related relief.

[2] The Attorney General of Canada has consented to the bringing of this motion, thereby fulfilling the prerequisite under subsection 40(2) of the Act.

[3] The applicants ask that their motion be decided on the basis of the written representations in accordance with Rule 369 of the *Federal Courts Rules*, S.O.R./98-106. The motion record establishes that the appellant was duly served with this motion on October 11, 2019. No response to the motion has been filed, and the time for doing so has expired. Rule 369(4) of the *Federal Courts Rules* provides that in such circumstances, the Court may dispose of the motion on the basis of the written material. The Court exercises its discretion to do so.

[4] While the appeal within which this motion is brought has been dismissed, it remains live given the appellant's continued right to bring a motion for reconsideration as per the Direction of this Court issued on July 15, 2019 and also on the authority of *Olumide v. Canada*, 2016 FCA 287. Despite the dismissal of the appellant's appeal in this matter on June 5, 2019, he has continued to send multiple documents to the Registry, the head of the Courts Administration Services, the Chief Justice of the Federal Court of Appeal and named Registry officials. However, these documents either did not comply with the *Federal Courts Rules* or were unrelated to the reconsideration of the aforesaid dismissed appeal, and can only be described as incoherent.

[5] The vexatious behaviour of the appellant justifying the issuance of the Order sought includes, but is not limited to, the following:

- The appellant makes no legal arguments in his Notice of Appeal, but rather relies on pseudo-law devoid of merit, given its strong rejection by the Alberta Court of Queen's Bench and the Federal Court;
- The appellant has persistently used litigation as a weapon, among others, by naming as defendants members of the judiciary who have found against him or simply because the appellant disagrees with one of their decisions in proceedings unrelated to him, along with organizations tasked with the enforcement of Court Orders;
- In his Notice of Appeal, the appellant has made unsupported allegations of fraud, corruption and conflict of interest on the part of members of the judiciary and the Federal Court as a whole. To name a few examples, he has questioned the ability of the Federal Court and its staff to be impartial and unbiased, has alleged corruption in government and the courts, has stated that the actions of Justice Mosley of the Federal Court are corrupt and has impugned Justice Mosley's decision to issue an Order declaring him a vexatious litigant in docket T-1546-18 on the basis of fraud and fabricated evidence;

- The appellant has repeatedly ignored Federal Court directions and plainly disregarded timelines and process. For example, he has attempted to file motions despite a direction that none be filed until the resolution of a motion to strike and he has refused to accept service of the applicants' motions unless served personally;
- The grounds for appeal put forth by the appellant are devoid of merit and levy an implicit attack on Associate Chief Justice Rooke relating to his decision in *Meads v. Meads*, 2012 ABQB 571, 543 A.R. 215.

[6] Overall, the appellant has demonstrated ungovernable conduct and persists in engaging in behaviour designed to harm the Court system and its participants. Specifically, his use of pseudo-law, fuelled by his conspiratorial perspectives, aims at subverting and disrupting legal authority in Canada and signals clear disrespect for the proper functioning of the Court system. Allowing the appellant to institute new proceedings or continue existing ones would needlessly squander Court resources. There is no question he is vexatious within the meaning of *Canada v. Olumide*, 2017 FCA 42, [2018] 2 F.C.R. 328.

[7] The applicants seek lump sum costs in the amount of \$10,000, payable forthwith, due to the appellant's repeated refusal to pay the costs ordered in the two previously mentioned Federal Court files, leading to an application for an assessment of costs in one of these cases. The forthwith lump sum nature of the award is warranted given the appellant's past behaviour and the amount is reasonable based on the evidence before me.

[8] I will make an order under section 40(3) of the *Federal Courts Act* declaring the appellant a vexatious litigant and prohibiting him from instituting further proceedings or preliminary motions pertaining to each proceedings or from continuing proceedings previously instituted by him, including taking any further step in the present proceeding, or intervening in others' proceedings, whether acting for himself or having his interests represented by others, without leave of this Court. The order will also provide that leave cannot be granted until the appellant has submitted a fully compliant motion record seeking same, has demonstrated a *bona fide, prima facie* case for the proceeding or motion, and has submitted proof that all outstanding costs awards against him in this Court and the Federal Court have been paid in full.

"Marc Noël"

Chief Justice

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:

A-116-19

STYLE OF CAUSE:

MINISTER ALFRED [FRED]
POTVIN v. JOHN D. ROOKE *et al.*

MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER BY:

NOËL C.J.

DATED:

NOVEMBER 19, 2019

WRITTEN REPRESENTATIONS BY:

Kara L. Smyth
Cassidy Thomson

FOR THE RESPONDENTS, JOHN
D. ROOKE, GLENNYS L.
MCVEIGH AND MARY T.
MOREAU

SOLICITORS OF RECORD:

McCarthy Tétrault LLP
Clagary, Alberta

FOR THE RESPONDENTS,
JOHN D. ROOKE, GLENNYS L.
MCVEIGH AND MARY T.
MOREAU