

Federal Court



Cour fédérale

**Date: 20151124**

**Dockets: T-1287-15  
T-1227-15  
T-1282-15  
T-1309-15  
T-1336-15**

**Citation: 2015 FC 1307**

**Toronto, Ontario, November 24, 2015**

**PRESENT: The Honourable Mr. Justice Campbell**

**Docket: T-1287-15**

**BETWEEN:**

**WALLY DOVE**

**Plaintiff**

**and**

**HER MAJESTY THE QUEEN**

**Defendant**

**Docket: T-1227-15**

**AND BETWEEN:**

**JASON DOVE**

**Plaintiff**

**and**

**HER MAJESTY THE QUEEN**

**Defendant**

**Docket: T-1282-15**

**AND BETWEEN:**

**MICHAEL BURSEY**

**Plaintiff**

**and**

**HER MAJESTY THE QUEEN**

**Defendant**

**Docket: T-1309-15**

**AND BETWEEN:**

**GLENN BURSEY**

**Plaintiff**

**and**

**HER MAJESTY THE QUEEN**

**Defendant**

**Docket: T-1336-15**

**AND BETWEEN:**

**MICHAEL BURSEY**

**Plaintiff**

and

**HER MAJESTY THE QUEEN**

**Defendant**

**JUDGMENT AND REASONS**

[1] In the Motion presently under consideration, the Respondent requests an order striking out the Statement of Claim, without leave to amend, in each of the five actions in this Consolidated Action on the primary ground that each Statement of Claim discloses no reasonable cause of action.

[2] The Motion comes by way of an appeal by the Plaintiffs from the decision of a Prothonotary of the Court in which the Motion was granted. On appeal, on my determination that the Motion is vital to the outcome of each action, the Motion has been heard *de novo* pursuant to Rule 51 (1) of the *Federal Court Rules*, SOR/98-106 (*Rules*) (see: *Merck & Co. v Apotex Inc.*, 2003 FCA 488 at para. 19).

[3] The Plaintiffs are unrepresented by Counsel, but on the present appeal each Plaintiff agreed that Mr. Wally Dove, the Plaintiff in action T-1287-15, would speak on their behalf. Since the Plaintiffs agreed that the content of the Statement of Claim in each action is essentially the same as that provided in T-1287-15, it is appropriate that the Statement of Claim of that

action be the focus of the present appeal, and the outcome of that focus be the same for each action.

I. **The Plaintiffs' Perspective**

[4] At the hearing of the present Motion, Mr. Dove spoke well; he was courteous and respectful. To my observation Mr. Dove presented an honest commitment to, and belief in, the following statement, upon which the Statements of Claim are based:

Bill in Equity

For purposes of this Instrument, CLAIM means- A claim is a challenge of the ownership of a thing which a man has not in possession and is wrongfully withheld by another. Plowd. 359; Wee i Dall.444; 12 S. & R. 179. \_1856 Bouvier's Law Dictionary

The petition of Wally Dove, a private person, of Minden, in Hailiburton County, Ontario, individually, and as next friend of Jason Dove, Glenn Bursey and Michael Bursey, respectfully represents:

1. That the Complainants grant *In Personam* jurisdiction to this Honourable Court under the Rules of Equity.
2. That Wally Dove is the father of Jason Dove and friend of Glenn Bursey who is the father of Michael Bursey, all of whom live in the geographical area known as Ontario.
3. That the defendant in these matters claims be the Queen of Canada and represents herself as the Legislative, Executive and Judicial power for Canada and has delegated Her powers to the Governor General of Canada, who in turn, delegates certain of those powers to others who are acting in various capacities within the defendant's agency, the government of Canada.
4. That all of the Claimants were born as human beings (see Annex "A" [statements of birth]) and choose to be recognized as private persons within the geographical land mass known as Canada and were born free and equal in dignity and rights with all other human beings.

5. That as free born human beings, the Claimants were with the Power of Attorney (*Dominion*) from their Creator over all the land, resources upon the land, resources within the land and resources underneath the sea ("assets").
6. That the defendant has created a system of commerce complete with Rules (*Acts and Statutes having the force of law*), a Government (*delegated the power to carry on the defendant's business in Canada and govern Her subjects who have consented to be Her subjects*), and Fiat Currency (*money*), the foundation of the system of commerce.
7. That as a part of the process of establishing and implementing this system of commerce, the defendant assumed control over all the land, resources upon the land, resources within the land and resources underneath the sea. All of which are the "assets" belonging to the Creator and over which the Complainants have power of Attorney (*Dominion*).
8. That the defendant has, and/or Her agents and/or agencies acting on Her behalf, have seized control and are managing those "assets" (*a Trust*) since the inception of the system of commerce and in the Complainants' case, since their respective dates of birth, or at least the date of registration of their births.
9. That the defendant has sold a significant portion of the Complainants' "assets" for money and has kept the money.
10. Further, the defendant has trespassed upon the Complainants' fundamental rights and freedoms, thus causing severe harm and damages.
11. That the Complainants claim the restoration of their property (*including, inter alia, the value of their "assets" sold to date, care and control of their "assets" and future returns, as well as their individual fundamental rights and freedoms*).
12. The damages are estimated to be the value of the Bond (*Statement of live birth and/or Birth Certificate*).
13. In the case of Complainant, Wally Dove, the value of his Bond is more or less, \$522,800,000.00 and the interest earned to date is more or less, \$475,800,000.00. Wally Dove is also entitled to triple damages of the amount of actual damages sustained by him and the costs of the action including reasonable attorneys' fees, if applicable.

14. In the case of Complainant, Jason Dove, amounts and evidence to be presented on November 17, 2015.

15. In the case of Complainant, Glenn Bursey, amounts and evidence to be presented on November 17, 2015.

16. In the case of Complainant, Michael Bursey, amounts and evidence to be presented on November 17, 2015.

Dated at Minden the 11<sup>th</sup> day of November, 2015

Wally Dove, Human Being (Private Person)

## II. **The Claims Based on the Perspective**

[5] The essential claims in Mr. Dove's Statement of Claim are set out in the APPENDIX to these reasons.

## III. **The Motion to Strike Without Leave to Amend**

[6] In support for the present Motion to strike, without leave to amend, Counsel for the Respondent relies upon the ground stated in Rule 221(1)(a) of the *Rules*:

(1) On motion, the Court may, at any time, order that a pleading, or anything contained therein, be struck out, with or without leave to amend, on the ground that it (a) discloses no reasonable cause of action or defence, as the case may be [...]	(1) À tout moment, la Cour peut, sur requête, ordonner la radiation de tout ou partie d'un acte de procédure, avec ou sans autorisation de le modifier, au motif, selon le cas: a) qu'il ne révèle aucune cause d'action ou de défense valable;
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In *R v Imperial Tobacco Canada Ltd*, 2011 SCC 42 at paragraph 17, the test for this ground is stated:

A claim will only be struck if it is plain and obvious, assuming the facts pleaded to be true, that the pleading discloses no reasonable cause of action: *Odhavji Estate v. Woodhouse*, 2003 SCC 69, [2003] 3 S.C.R. 263, at para. 15; *Hunt v. Carey Canada Inc.*, [1990] 2 S.C.R. 959, at p. 980. Another way of putting the test is that the claim has no reasonable prospect of success. Where a reasonable prospect of success exists, the matter should be allowed to proceed to trial: see, generally, *Syl Apps Secure Treatment Centre v. B.D.*, 2007 SCC 38, [2007] 3 S.C.R. 83 *Odhavji Estate*; *Hunt*; *Attorney General of Canada v. Inuit Tapirisat of Canada*, [1980] 2 S.C.R. 735.

[Emphasis added]

[7] I find that the Plaintiffs' attempt to seek access to justice in this Court must be rejected because their Statements of Claim have no reasonable prospect of success. As evidenced by the "Bill in Equity", the Plaintiffs have developed a belief unknown to the laws of Canada, upon which their Statements of Claim are based.

[8] No cause of action arises from a belief that, by birth in Canada, a person acquires a proprietary interest in the resources of the country, under the wrongful control of Her Majesty the Queen, that founds a monetary claim which is calculable based on that person's date of birth.

[9] As a result, pursuant to Rule 221(1)(a) of the *Rules*, I order that the Statements of Claim in each of the actions in the present Consolidated Action, be struck out, without leave to amend.

#### IV. Costs

[10] As the successful party, I accept Counsel for the Respondent's request that costs of the present Motion be ordered to be paid by the Plaintiffs jointly.

[11] In preliminary written argument dated September 15, 2015, Counsel for the Respondent argued for an elevated cost award to discourage “this type of abusive litigation and to indemnify the Defendant for her legal costs”. Given that I have found that the Plaintiffs have brought the present Consolidated Action on the basis of an honest belief, and similar claims have not been determined by this Court, I have no reason to conclude that the present litigation is an abuse of process.

[12] However, I would caution that the present minimal costs award is being made strictly on the basis of the present unique circumstances.



**JUDGMENT**

**THIS COURT'S JUDGMENT is that** each of the Statements of Claim in the present Consolidated Action is struck, with no liberty to amend.

I award costs in favour of the Respondent, to be payable by the Plaintiffs jointly, in the lump sum of \$2,000.00.

"Douglas R. Campbell"

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Judge

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APPENDIX

The essential claims in T-1287-15 are as follows:

1. The applicant comes before the court seeking the administration of justice. [...]

[...]

3. The applicant further claims that the defendant, through an operation of law, inter alia, Section 93 of the Bank Act, S.C. 1991, c. 46, established Himself as Constructive Registered Holder of the applicant's security, and as such assumed the right to be treated as "the person exclusively entitled to vote, to receive notices, to receive any interest, dividend or other payment in respect of the security and to exercise all of the rights and powers of an owner of the security", even though the applicant is of full age of majority and competent to operate upon his own security. Further, this all took place without the applicant's knowledge or consent. [Subsection 3(b)(ii) of the Crown Liability and Proceedings Act,

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R.S.C., 1985, c. C-50]

4. The applicant informed the holder of the defendant's Executive Powers, the Governor General, that the applicant no longer wishes to be recognized and designated as a servant and subject of the defendant.

5. This was accomplished by sending a Notice of Understanding and Claim of Recognition

("Notice") to the defendant's representative in Canada, the Governor General of

Canada. The Notice was dated March 25, 2015 and received by the Governor General on

April 8, 2015. (Evidence available at trial)

6. In the "Notice", the applicant informed the executive powers that the applicant no longer wishes to be recognized and designated as a servant and subject of Her Majesty the Queen.

[...]

14. The applicant informed the Queen in council that he will only stand under recognition and designation as a Human Being. That the applicant has no obligation to seek to have a right conferred upon him by the defendant through a license or permit. [...]

[...]

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20. The applicant is seeking to exercise, inter alia, his fundamental right to an adequate living. The applicant claims that this right to enjoy a living has been restricted, contrary to the principles of fundamental justice.

21. Further, the defendant continues to operate upon the applicant's security despite the fact that the applicant is of the age of majority and competent to conduct his own financial and other affairs.

22. The applicant claims that the right to work in order to gain a living was forced upon the applicant contrary to the principles of fundamental justice. [...]

[...]

24. The applicant is under no obligation to exercise the right to work. In fact, the applicant claims that this right does not produce an obligation in law, a right never produces an obligation but a choice. [...]

25. The applicant claims that the defendant, Her Majesty the Queen, as a state party member is under obligation, as a signatory to the international covenants, to recognize the right to work.

26. There is a right to work that an individual can choose to exercise. As with any right, it can be used or not. The right to work includes (a canon of construction holding that to express or include one thing, implies the exclusion of the other, or of the alternative) the right of everyone to the opportunity to gain his living by work. The right to work then, is for the sole purpose of gaining the applicant's living. This right extends to everyone (Human Being) to permit one the opportunity (choice or opportunity) to gain his or her living by work.

[...]

28. The applicant claims that this right to work and earn, gain or pursue a living is something that must freely be chosen or accepted. This is the principle of fundamental justice concerning the right to work.

[...]

30. The applicant claims that in order to have and enjoy an adequate standard of living, the applicant tried to exercise his fundamental right to an adequate living and was denied by the defendant. [...]

32. The applicant has invoked his right not to work, [...]

33. The applicant has a right to gain his living by work which he freely chooses or accepts to do. The applicant, however, has chosen not to gain a living by choosing to work. Instead, the applicant has chosen to pursue happiness in life. In pursuing happiness the applicant is not gaining his living by work yet he remains with the right to enjoy an adequate standard of living [...]

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34. The applicant claims that this right is being restricted by the defendant contrary to the principles of fundamental justice.

35. Another right that is being restricted, contrary to the principles of fundamental justice is the right of the applicant to contribute (or not) to the economic, social and cultural development of the defendant.

[...]

38. In an exchange of labour for money, the applicant exchanges his property (labour) for another property (money). This latter property belongs solely to the applicant and when the Canada Revenue Agency, an agent of the defendant, by threat of the use of violence, forces the applicant to contribute a portion of his property to the defendant in the form of taxation in order to finance the economic, social and cultural development of the defendant's commercial enterprise called Canada, this constitutes a violation of the applicant's rights and Canada's international obligations.

[...]

49. On May 15, 2015 the applicant sent a demand to the the [sic] Receiver General for Canada, who is an agent of the defendant. This demand was sent pursuant to the applicant's right to security of the person (Article 7 of Schedule B, of the Constitution Act, 1982). (Evidence will be available at trial)

[...]

51. The applicant claims that the Receiver General is an agent of the defendant and this is the designation or the role of the Receiver General. This office has been charged with the duties and responsibilities of collecting debts and also paying off any obligation (debt) that the defendant or the government of Canada may have.

52. A claim for settlement was sent to the Receiver General along with all supporting evidence. But the defendant failed to discharge Her duty to provide the applicant with an adequate standard of living and incidentally, the applicant also demanded return of care and control over his security to him, but again, the defendant failed to comply.

(Evidence will be available at trial)

[...]

57. The applicant claims there has been a security issued to him when he was a child, shortly after his birth, and this security represents the obligation (debt) that the defendant and her agents are under to allow the applicant, a Human Being, to be secure from fear and want and to allow him to enjoy an adequate standard of living.

[...]

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59. The applicant claims that the defendant, in right of Canada, through her executive powers became a signatory to the international Covenants, and thereby became obligated and accountable to respect and ensure all the fundamental rights and freedoms contained in the covenants. [...]

[...]

62. The applicant claims that a security is in registered form if it bears a statement upon it that it is in registered form. If one looks upon the documentation given or received from the government (Registrar General) after the applicant (Human Being) was born, it is designated a registration of live birth (a.k.a., birth registration document). Written upon this instrument are terms such as Registration number, Registration date, etc., all indications that the instrument is registered, meaning it is in registered form. [...]

63. The applicant claims that the office of the Registrar General from whom he obtained a certified copy of the birth registration document (security), is also an agent of the defendant and operating on Her behalf.

[...]

65. The applicant claims his security is proof of the debt obligation that the defendant owes to the applicant.

66. This obligation, inter alia, is to ensure the applicant (Human Being) enjoys an adequate standard of living including food, clothing and housing and to the continued improvement of those living conditions [...]

67. This security is issued to the natural person (i.e. The Human Being) and creates or represents the obligation (debt) owing to the applicant by the defendant.

[...]

72. The applicant claims that the registration of live birth is an instrument that proves the birth of a child (human being). The applicant accepts that a child in law, an infant, is a minor and not capable of handling its own financial and other affairs and must be looked after (governed by a trustee).

73. The applicant respectfully submits that it is, inter alia, the Bank Act that creates a Trust because the bank may treat a person as a registered security holder who is entitled to exercise all the rights of the security holder if this person presents to the bank a certain piece of evidence.

[...]

75. The applicant claims that the defendant (Queen in Council) is declaring that the applicant is indeed a minor and unable to operate the entitlements to the security of the person.

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The Ministers, agents of the defendant, are the persons who are currently exercising the rights to the applicant's security.

[...]

78. The applicant claims that a trustee is treated as the owner of the security, the trustee declares that the applicant is a minor and then exercises the rights to his security.

79. The bank treats the trustee (the defendant's agent(s)) "as the person exclusively entitled to vote, to receive notices, to receive any interest, dividend or other payment in respect of the security and to exercise all of the rights and powers of an owner of the security", even though they are not the owner of the security, the applicant is the "registered security holder" of his security.

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80. The applicant further claims that he has severed the Constructive Registered Holder's claimed rights over his security via the Notice of Understanding and Claim of Recognition sent to the holder of the defendant's Executive powers, the Governor General on March 31, 2015 and received by him on April 8, 2015.

81. The applicant claims that the Receiver General failed to allow the applicant to operate upon his security by refusing to comply with the applicant's Instruction for Payment.

82. The applicant sent a request for funds to be released in accordance with his instructions, solely for the purpose of fulfilling his right to an adequate standard of living, even though, since the money comes from the applicant's security (from the Consolidated Revenue Fund), the defendant's agents have absolutely no right to operate upon his security any longer which means the request for funds did not even have to be justified in anyway.

[...]

84. The Receiver General did not fulfill its obligations as indicated in this claim. In fact, the Receiver General did not even respond to the applicant.

[...]

88. The applicant claims that the Receiver General is subject to the Constitution Act of Canada and has not fulfilled his duty by reconciling the applicant's claims and releasing the funds as instructed.

[...]

91. The applicant claims that by not making reconciliation of the applicant's claim for an adequate standard of living and releasing the funds, control of his security and his patrimony, the

defendant through her agent, the Receiver General, is exercising arbitrary powers in trying to deny, inter alia, the applicant's fundamental right to security of the person.

92. The applicant claims that the defendant and Canada have the obligation to protect and uphold the right(s) that the applicant is seeking to enforce through this court action.

[...]

98. Finally, the Statement of Live Birth is a security, based upon the definition of security contained in the Bank Act.

99. The applicant's security is evidence of a debt owing to the security holder, in this case, the applicant.

100. A debt can be in the nature of a commitment to recognize, protect and uphold ones human rights or the value of an Estate, in this case the applicant's Patrimony, which forms part of the Consolidated Revenue Fund.

101. Under the authority of the Bank Act, inter alia, the agent(s) of the defendant made themselves the Trustee (Constructive Registered Holder) of the applicant's security and are, as

a result, operating upon this security and "entitled to vote, to receive notices, to receive any interest, dividend or other payment in respect of the security", as an operation of law.

102. That security belongs to, and is the property of, the applicant and care and control of that security must be returned to the applicant upon request, AND HE DOES SO REQUEST.

Relief Sought:

The applicant therefore claims as follows:

a) An Order that the defendant honour Her obligations to the applicant, inter alia, as outlined in Article 7 of Schedule B of the Constitution Act, 1982.

b) An Order that the defendant arrange for the return of care and control of the applicant's security to him and it is the applicant, not the Constructive Registered Holder, who is "entitled to vote, to receive notices, to receive any interest, dividend or other payment in respect of tile security". [...]

c) An Order that the defendant arrange for the transfer of care and control over the applicant's Patrimony, the remaining portion of the Consolidated Revenue Fund that represents the "interest, dividend or other payment in respect of the (applicant's) security".

d) An Order that the defendant pay damages to the applicant in the amount of \$50,000,000.00.

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e) An Order that the defendant pay the applicant \$50,000,000.00 in punitive damages.

f) An Order to cease and desist hindering the applicant in his expression and operation of his individual rights and fundamental freedoms by allowing the applicant to use Promissory Notes without the interference of any representative of the defendant's Bank OR the defendant.

g) An order that the defendant safeguard the applicant's rights, inter alia, as expressed in Article 7 of the Charter, "Everyone has the right to life, liberty and security of the person". The applicant a Human Being, has the right to the security of his person and no one can deprive him of this right.



**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKETS:** T-1287-15, T-1227-15, T-1282-15, T-1309-15 AND T-1336-15

**DOCKET:** T-1287-15

**STYLE OF CAUSE:** WALLY DOVE v HER MAJESTY THE QUEEN

**AND DOCKET:** T-1227-15

**STYLE OF CAUSE:** JASON DOVE v HER MAJESTY THE QUEEN

**AND DOCKET:** T-1282-15

**STYLE OF CAUSE:** MICHAEL BURSEY v HER MAJESTY THE QUEEN

**AND DOCKET:** T-1309-15

**STYLE OF CAUSE:** GLENN BURSEY v HER MAJESTY THE QUEEN

**AND DOCKET:** T-1336-15

**STYLE OF CAUSE:** MICHAEL BURSEY v HER MAJESTY THE QUEEN

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** NOVEMBER 17, 2015

**JUDGMENT AND REASONS:** CAMPBELL J.

**DATED:** NOVEMBER 24, 2015

**APPEARANCES:**

Wally Dove (Self-represented)

FOR THE PLAINTIFF

Stewart Phillips

FOR THE DEFENDANT

**SOLICITORS OF RECORD:**

Wally Dove (Self-represented)

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FOR THE PLAINTIFF

FOR THE DEFENDANT