

Federal Court



Cour fédérale

Date: 20211130

Docket: T-1404-20

Citation: 2021 FC 1317

Ottawa, Ontario, November 30, 2021

PRESENT: The Honourable Madam Justice Rochester

BETWEEN:

DALE RICHARDSON

Plaintiff

and

**SEVENTH-DAY ADVENTIST CHURCH,
CIVILIAN REVIEW AND COMPLAINTS COMMISSION ("CRCC"),
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 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] **UPON** a motion by the Plaintiff, Mr. Dale Richardson, who is self-represented, made returnable at General Sittings in Ottawa on November 17, 2021, for the following relief:

(a) An order to set aside the orders of Prothonotary Tabib dated October 26, 2021;

(b) An order to set a special sitting date to determine the torture of the Plaintiff by the rogue agents of the Department of Homeland Security on the merits of the matter and any other action that constitutes complicity to same;

(c) An order to set a special sitting date to hear constitutional questions arising from T-1404-20;

(d) An order to permit constitutional questions to be filed regardless of any rule contravention due to the imperative public nature of treason and the extreme prejudice the Plaintiff has been subjected to;

(e) An order to stop the Case Management until the determination of a thorough, impartial investigation based on the merits alone.

[2] **AND UPON** considering the Plaintiff's Motion Record filed on October 29, 2021, including the written representations contained therein;

[3] **AND UPON** noting that the Defendants have informed the Court that they will not be submitting representations in reply;

[4] **AND UPON** considering the oral submissions of the Plaintiff at the hearing;

[5] This motion is, among other things, an appeal of an order from the case management judge for this action, Prothonotary Tabib, dated October 26, 2021 [Order] following a case management conference held on October 25, 2021. In the Order, Prothonotary Tabib set 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 section 40 (Vexatious proceedings) of the *Federal Courts Act*, RSC 1985, c F-7 [s. 40 Motion]. The Order also granted a motion by one of the Defendants for leave to intervene in the s. 40 Motion on the basis that that this individual is already a named defendant in the action. Finally, Prothonotary Tabib ordered that “[a]ll other proceedings in this action remain suspended until further order or direction of the Court.” In essence, the subject of this appeal is a scheduling order by the case management judge, Prothonotary Tabib.

[6] This is the second time the Plaintiff has appealed an order by the case management judge setting out the various steps leading up to the scheduling of a hearing for the s. 40 Motion. In *Richardson v Seventh-Day Adventist Church*, 2021 FC 1105 [Richardson], the Plaintiff appealed Prothonotary Tabib's scheduling order dated August 31, 2021. In *Richardson*, I set out the background of the action in detail and provided a summary of the various steps that had been taken to date. To quote a brief portion, in this action:

[6] 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.

[7] 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, and several appeals. For a period of several months earlier this year, the Plaintiff was detained in the United States for, as he described to the Court, having fled Canada in April 2021 to the United States to claim asylum, protection from torture, and for the purpose of disclosing evidence of alleged persecution, torture, terrorism, mortgage fraud, treason and other crimes to the United States. The Plaintiff attended a number of case management conferences and the hearing of the motion for an interlocutory injunction by way of telephone from detention in the United States. On September 1, 2021, the Plaintiff was deported by the United States Department of Homeland Security to Canada. The Order that is the subject of this appeal was rendered

following a case management conference held on October 25, 2021, after the Plaintiff had returned to Canada.

[8] The Plaintiff has filed a substantial volume of material in his Motion Record. In the present motion, the 1648-page Motion Record contains a Notice of Motion, an affidavit from the Plaintiff along with exhibits thereto, written representations, and a list of authorities. In his written representations, the Plaintiff grouped his arguments under the following headings:

- I. The Court is being used to Commit Crimes;
 - A. There Was a Conspiracy to Defraud and Torture the Plaintiff by State and Private Actors;
 - B. The Parties on July 23, 2020, are Conspirators to Treason;
 - C. The Court of Queen's Bench for Saskatchewan or any Other Associated Party Has Failed to Comply with the UN Torture Convention;
 - D. The Conspirators in the United States Courts and Other Agencies Have Demonstrated Actions That are Consistent With Treason Against the United States;
 - E. The Trans-National Invariable Pursuit of the Object;

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

Without this *Motion* for appeal granted, it will allow the extreme prejudice demonstrated by state actors in Canada and the United States to effectively use the courts to commit crimes and silence the Plaintiff, to violate the constitution, commit treason, and torture the Plaintiff, an innocent child and punish an unrelated party to any Federal Court of Canada proceeding Robert A. Cannon. No person shall use the courts to commit crimes, and the parties are all involved in the allegations of torture of the Plaintiff.

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

[11] At the outset of the hearing, the Plaintiff alleged that I was biased and requested that another judge hear his motion. In response to the Plaintiff's request to adjourn the hearing and assign it to a different judge, I informed the Plaintiff that I would hear the motion and that it will not be rescheduled. My sole dealings with the Plaintiff have been to hear a previous motion of his that led to the decision in *Richardson* referred to above. In *Richardson*, I granted the Plaintiff's request for an extension of time to serve and file his appeal of the case management judge's order, but ultimately dismissed the appeal.

[12] Properly construed, the Plaintiff's allegation of bias is one of strong disagreement with my order and reasons in *Richardson*. As to the reasons in *Richardson*, and the reasons herein, the manner in which the Plaintiff may express his disagreement is by way of appeal to the Federal Court of Appeal. As to the Plaintiff's allegation of bias and his request for a different judge, I have been assigned to hear and determine this matter, and I am obliged to carry it out unless there is a legal reason to recuse myself. I find that the test for bias, being whether a reasonable, fully-informed person, thinking the matter through, would conclude that it is more likely than not that I, whether consciously or unconsciously, would not decide the present appeal fairly, has not been made out (*Committee for Justice and Liberty et al. v National Energy Board et al.*, [1978] 1 SCR 369 at page 394 [*Committee for Justice and Liberty*]). The fact that I have dismissed a previous appeal by the Plaintiff would not lead a reasonable, fully informed person to conclude that I would not proceed with an open mind or that I would be biased against the Plaintiff.

[13] As to the appeal of Prothonotary Tabib's Order, the standard of review is the following. 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*]). This a highly deferential standard of review. 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 questions of fact (*Hughes v Canada (Human Rights Commission)*, 2020 FC 986 at para 67).

[14] Given the Plaintiff is self-represented, on numerous occasions during the hearing I reminded the Plaintiff that his burden was to show that Prothonotary Tabib’s Order was incorrect in law or was based on a palpable and overriding error in regard to the facts. The thrust of the Plaintiff’s argument is that Prothonotary Tabib is aware of “torture”, “treason”, “conspiracy” and “crimes” but has nevertheless permitted the scheduling of the steps leading up to the hearing of the s. 40 Motion to proceed. It is the Plaintiff’s submission, among other things, that Prothonotary Tabib is complicit in the torture of the Plaintiff and is permitting the Federal Court to be used to commit crimes, including treason. The Plaintiff submits that Prothonotary Tabib ought to not permit the s. 40 Motion to proceed and be heard, as to do so, would cause the Plaintiff “extreme prejudice”.

[15] The allegations of torture and other crimes relate to events that are alleged in the statement of claim in these proceedings, which include allegations relating to a Non-Disclosure Agreement [NDA] with Innovation Credit Union, a divorce and custody dispute, warrants issued by the Royal Canadian Mountain Police [RCMP], the Plaintiff’s arrest by the RCMP and detention at the Battleford Mental Health Centre, and proceedings related thereto in

Saskatchewan. Many of the events that are alleged in the statement of claim are also addressed in detail in the Motion Record. At the hearing, the Plaintiff focused on the events surrounding the NDA, his dealings with the RCMP, the warrants issued by the RCMP, his arrest by the RCMP and his admission to the Battleford Mental Health Centre, and his subsequent complaint of torture lodged with the RCMP detachment at Battleford, Saskatchewan.

[16] I informed the Plaintiff multiple times during the hearing that, in pleading the above, he was seeking to litigate the merits of the allegations against the Defendants in the underlying action rather than focusing on the test an appellant is required to meet in order to succeed in an appeal under Rule 51 of the *Federal Courts Rules*, SOR 98-106 [Rule 51]. The Plaintiff expressed frustration because he considers that the merits of his allegations of torture ought to be heard in short order. The Plaintiff relies on Article 13 of *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1987, 1465 UNTS 85 [UN Torture Convention] for the proposition that his claims of torture ought to be heard during the appeal of the Order or at the very least prior to the s. 40 Motion. Article 13 of the *UN Torture Convention* provides:

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

[17] The Plaintiff submits that events that are alleged to have been perpetrated by the Defendants in this action constitute, among other things, torture, and as such this Court has the

obligation to intervene at this stage. The Plaintiff submits the same is true with respect to the actions of Prothonotary Tabib in her role as the case management judge.

[18] As to the past events that are alleged to have taken place, these allegations against the Defendants relate to the merits of the underlying action and it is not appropriate for me to make a determination on them in the context of an appeal from Prothonotary Tabib's Order. In other words, they are outside the scope of this motion under Rule 51, which is an appeal of what is effectively a scheduling order by the case management judge.

[19] I now turn to the Plaintiff's submissions that the actions of Prothonotary Tabib, in rendering the Order, constitute torture. Article 1 of the *UN Torture Convention* defines torture for the purpose of the *Convention*. This definition has been incorporated, almost verbatim, into the *Criminal Code*, RSC 1985, c C-46 at subsection 269.1(2), in the context of the offence of torture by an official as defined in 269.1(2):

torture means any act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person

(a) for a purpose including

(i) obtaining from the person or from a third person information or a statement,

(ii) punishing the person for an act that the person or a third person has committed or is suspected of having committed, and

torture Acte, commis par action ou omission, par lequel une douleur ou des souffrances aiguës, physiques ou mentales, sont intentionnellement infligées à une personne :

a) soit afin notamment :

(i) d'obtenir d'elle ou d'une tierce personne des renseignements ou une déclaration,

(ii) de la punir d'un acte qu'elle ou une tierce personne a commis ou est soupçonnée d'avoir commis,

(iii) intimidating or coercing the person or a third person, or

(b) for any reason based on discrimination of any kind,

but does not include any act or omission arising only from, inherent in or incidental to lawful sanctions. (*torture*)

(iii) de l'intimider ou de faire pression sur elle ou d'intimider une tierce personne ou de faire pression sur celle-ci;

b) soit pour tout autre motif fondé sur quelque forme de discrimination que ce soit.

La torture ne s'entend toutefois pas d'actes qui résultent uniquement de sanctions légitimes, qui sont inhérents à celles-ci ou occasionnés par elles. (*torture*)

[20] I note that the definition requires that there be an intent to inflict pain and suffering on a person. Moreover, even where such pain and suffering has been inflicted, it is not, by definition, torture where the pain and suffering arose from, was inherent in, or incidental to, lawful sanctions.

[21] There is no evidence that Prothonotary Tabib intended to inflict pain and suffering on the Plaintiff or that she acted in any way unlawfully in scheduling the various procedural steps that will ultimately lead to the hearing of the s. 40 Motion. Indeed, scheduling procedural steps leading up to a hearing of a motion filed by a party to the proceedings falls squarely within her duties as the case management judge. Prothonotary Tabib's actions in rendering the Order do not constitute "torture" as defined above. Rather, Prothonotary Tabib, as the case management judge, managed the proceedings and exercised her discretion in accordance with Rule 385(1)(a) of the *Federal Courts Rules*.

[22] It is clear that the Plaintiff wishes to prevent the s. 40 Motion from proceeding. Nevertheless, I remind the Plaintiff that he 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.

[23] The Plaintiff has also submitted that Prothonotary Tabib, among other things, is “extremely prejudiced” against him, has “abused her position”, is an “active participant in the worst crimes”, has allowed “the Federal Court of Canada to be used in the commission of treason against Canada and the United States, and other offences extraditable to the United States and punishable by death pursuant to United States law.”

[24] It is clear that the Plaintiff disagrees with the Order rendered by the Prothonotary Tabib, however it does not follow that she acted with bias or in a criminal manner because she rendered an Order that does not favour the Plaintiff. As noted above, the test for bias is whether a reasonable, fully-informed person, thinking the matter through, would conclude that it is more likely than not that an adjudicator, whether consciously or unconsciously, would not decide the matter fairly (*Committee for Justice and Liberty* at page 394). Moreover, there is a strong presumption of judicial integrity and impartiality, and the onus is on the party seeking to displace this presumption to present cogent evidence to support such a serious allegation (*Cojocaru v British Columbia Women’s Hospital and Health Centre*, 2013 SCC 30 at para 18; *Hociung v Canada (Public Safety and Emergency Preparedness)*, 2019 FCA 214 at para 52). I find the allegations of bias and criminal conduct on the part of Prothonotary Tabib to be baseless and devoid of any merit whatsoever.

[25] As quoted in the first paragraph of this Order and Reasons, the relief sought by the Plaintiff in this motion includes an order setting aside the Order of Prothonotary Tabib along with “(b) An order to set a special sitting date to determine the torture of the Plaintiff by the rogue agents of the Department of Homeland Security on the merits of the matter and any other action that constitutes complicity to same; (c) An order to set a special sitting date to hear constitutional questions arising from T-1404-20; (d) An order to permit constitutional questions to be filed regardless of any rule contravention due to the imperative public nature of treasons and the extreme prejudice the Plaintiff has been subjected to; (e) An order to stop the Case Management until the determination of a thorough, impartial investigation based on the merits alone.” Prothonotary Tabib’s Order provides that, apart from the steps scheduled in the context of the s. 40 Motion, all other proceedings in this action are to remain suspended until further order or direction of the Court. The Plaintiff has failed to demonstrate that the Order is incorrect in law or based on a palpable and overriding error in regard to the facts. As such, the Order stands and along with it the suspension of all other proceedings, which includes the above four additional proceedings requested by the Plaintiff.

ORDER in T-1404-20

THIS COURT ORDERS that:

1. The Plaintiff's appeal under Rule 51 of the *Federal Courts Rules* from Prothonotary Tabib's Order dated October 26, 2021, is dismissed;
2. The Plaintiff's requests for an order to set a special sitting date to (a) "to determine the torture of the Plaintiff by the rogue agents of the Department of Homeland Security" and (b) constitutional questions arising from this action, are denied;
3. The Plaintiff's request for an order to permit constitutional questions to be filed is denied;
4. The Plaintiff's request to cease case management is denied; and
5. 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 ("CRCC"), 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 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

PLACE OF HEARING: MONTRÉAL, QUEBEC BY VIDÉOCONFERENCE

DATE OF HEARING: NOVEMBER 17, 2021

ORDER AND REASONS: ROCHESTER J.

DATED:

NOVEMBER 30, 2021

APPEARANCES:

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SELF REPRESENTED

Me Justin Stevenson

FOR THE DEFENDANT MINISTRY OF JUSTICE
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Me Chantelle Eisner

FOR THE DEFENDANT SASKATCHEWAN
HEALTH AUTHORITY AND CORA SWERID

Me Marie K. Stack

FOR THE DEFENDANT JUSTICE R.W. ELSTON

Me Cheryl Giesbrecht

FOR THE DEFENDANT THE CIVILIAN REVIEW
AND COMPLAINTS COMMISSION ET AL.

Me Healthier J. Laing

DEPARTMENT OF JUSTICE
FOR THE DEFENDANTS JUSTICE CROOKS AND
JUSTICE CALDWELL

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