Date: **20231010**

Docket: **T-2064-22**

Citation: **2023 FC 1345**

Ottawa, Ontario, October 10, 2023

PRESENT: The Honourable Madam Justice Rochester

 BETWEEN:

KHALIQ HUSSAIN ANWAR

Applicant

and

**NEIL NAWAZ, SOCIAL SECURITY
TRIBUNAL OF CANADA APPEAL
DIVISION**

Respondents

ORDER AND REASONS

I.   <u>Overview</u>

[1]   The moving party, Khaliq Hussain Anwar, is self-represented. He seeks to set aside an

order of Associate Judge Trent Horne dated August 30, 2023 [Order], on the basis that the Order

is "fraudulent and full of mistake [*sic*]", "invalid and unlawful", and that Associate Judge Horne

is "dishonest", "affected by bad faith", and "unable to comply with the Judicial Oath".

Mr. Anwar relies on Rule 399(2)(b) of the *Federal Courts Rules*, SOR/98-106 [Rules] which provides that the Court may set aside or vary an order where the order was obtained by fraud.

[2]   The Order dismissed Mr. Anwar's application for judicial review for delay following a notice of status review issued August 15, 2023. The application sought judicial review of a decision from the Social Security Tribunal of Canada, Appeal Division [Tribunal] in which the Tribunal denied permission to appeal on the basis that no grounds had been identified that would have a reasonable chance of success. Mr. Anwar's notice of application was filed on October 4, 2022. By the time the status review commenced, Mr. Anwar had not served and filed any supporting affidavits pursuant to Rule 306 of the Rules. Mr. Anwar has, however, sought to file a number of letters seeking interim relief and seeking to appeal directions of the Court. These letters, purporting to be motions or interim applications, were not accepted for filing as motions because they did not comply with the Rules.

[3]   Mr. Anwar's position is that the Tribunal and various members of this Court, in particular Associate Judge Horne, have failed to grapple with and resolve the central issue, being the unlawful torture he has been subjected to on a daily basis over the past 17 years by the Canadian Security Intelligence Service [CSIS], through the use of a directed energy weapon, radiation, microwaves, and other techniques. Mr. Anwar submits that Associate Judge Horne ought to have taken numerous steps including launching an investigation into, and prosecuting, the crimes committed against him by CSIS. Mr. Anwar states that he reported a crime to Associate Judge Horne and not only did Associate Judge Horne not investigate it or stop CSIS, he dismissed the underlying application for judicial review for delay.

[4]   Mr. Anwar asserts that Associate Judge Horne failed to deal with his numerous interim applications and motions, which include the following:

- Interim application to stop the unlawful torture, to stop unlawful removals, to stop harassment;

- Interim application to compel the Respondents to release personal information of the Applicant in this torture case;

- Interim application to provide affidavit relief for torture victim;

- Interim application to investigate the torture;

- Interim application for compensation for torture;

- Interim application to answer human rights questions, to protect human rights under the Universal Declaration of Human Rights;

- Interim application to provide reasons for not solving the issues raised by the Applicant;

- Interim application to apply the balance of convenience approach;

- Interim application for hearing.

[5]   Mr. Anwar requests that this Court set aside the Order and, in summary, order: a hearing on the merits; disclosure from the Respondents; an "investigation of exempt bank ppu045 by csis on [him] be allowed"; compensation for torture; pension benefits for non-working and non-earning capacity; and costs.

II.   Analysis

[6]   In order to succeed on his motion, Mr. Anwar must satisfy the Court, on a balance of probabilities, that a false representation has in fact been made and that the false representation was made either knowingly, without an honest belief in its truth, or recklessly, careless of whether it be true or false (*Barkley v Canada*, 2018 FC 227 at para 26 [*Barkley*]; *Pfizer Canada Inc v Canada (Health)*, 2011 FCA 215 at paras 20-21). Simple allegations are not sufficient, rather concrete and credible evidence must be provided (*Barkley* at para 26).

[7]   In the motion before me, Mr. Anwar has filed only a notice of motion and not a full motion record. He sought relief and insisted that it be filed as is, which was granted by Associate Judge Michael D. Crinson. Mr. Anwar was informed in advance of the hearing that any external documents referred to in the notice of motion, but ultimately not filed in the context of a motion record, are not before the Court and thus cannot be taken into account.

[8]   Having carefully reviewed the contents of the notice of motion, the Respondents' motion record, and the initial record before Associate Judge Horne, Mr. Anwar has failed to convince me that Associate Judge Horne made a false representation or that the Order was obtained through fraud. While Mr. Anwar has made it abundantly clear that he disagrees with the Order and the Court's process to date, this does not constitute fraud as defined in the jurisprudence cited above.

[9]   Mr. Anwar has repeatedly refused to comply with the Rules, despite having been informed on multiple occasions by the Registry that the documents and letters he seeks to file are not compliant. His response has been to insist that they be sent to the Court for directions, which, in most instances, has resulted in the letters being refused for filing. Mr. Anwar submits that he should not be obliged to file motion records or the affidavits required to progress the proceedings on the basis that the energy weapon used by CSIS "attacks his body parts" and impacts him emotionally thus precluding him from coming to Court and filing an affidavit.

[10]   It is clear Mr. Anwar is frustrated by what he views is a failure by the Court to address his alleged issues with CSIS, notably to investigate the alleged crimes, prosecute them and order compensation for him. It is equally clear that, despite having been explained the limited role of the Court sitting in judicial review of a decision of the Tribunal, Mr. Anwar does not fully appreciate the nature of the proceedings that he has commenced before this Court. Nor does Mr. Anwar show any inclination towards understanding the limited scope of the present motion. Mr. Anwar appears to view the present proceedings as a mechanism through which to address his issues with CSIS and seek remedies outside the scope of judicial review.

[11]   I agree with Associate Judge Horne that the Court cannot provide legal advice to litigants (*Thom v Canada*, 2007 FCA 249 at para 14). A review of the recorded entries and the orders issued to date in the proceedings show that Mr. Anwar has received assistance from the Registry and this Court in terms of what he was required to do in order to move his matter forward to a final hearing on the merits. He has not done so, and this ultimately resulted in Associate Judge Horne's Order.

[12]   As to Mr. Anwar's frustration that his alleged issues with CSIS have not been dealt with in the context of the present proceedings, by the police or by the Royal Canadian Mounted Police, I can only implore him to seek legal advice in order to better understand what his legal recourses are.

[13]   For the foregoing reasons, Mr. Anwar's motion is dismissed, without costs.

ORDER in T-2064-22

THIS COURT ORDERS that:

1.   The Applicant's motion to set aside the Order of Associate Judge Horne dated

August 30, 2023 is dismissed.

2.   The whole without costs.

"Vanessa Rochester"
Judge

DOCKET:	T-2064-22
STYLE OF CAUSE:	KHALIQ HUSSAIN ANWAR v NEIL NAWAZ ET AL
PLACE OF HEARING:	HELD BY VIDEOCONFERENCE
DATE OF HEARING:	SEPTEMBER 26, 2023
ORDER AND REASONS:	ROCHESTER J.
DATED:	OCTOBER 10, 2023

APPEARANCES:

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