

Federal Court of Appeal



Cour d'appel fédérale

Date: 20230608

Docket: A-164-22

Citation: 2023 FCA 132

**CORAM: STRATAS J.A.
LEBLANC J.A.
GOYETTE J.A.**

BETWEEN:

SAJJAD ASGHAR

Appellant

and

HIS MAJESTY THE KING IN RIGHT OF CANADA

Respondent

Heard at Toronto, Ontario, on June 8, 2023.
Judgment delivered from the Bench at Toronto, Ontario, on June 8, 2023.

**REASONS FOR JUDGMENT OF THE COURT
BY:**

LEBLANC J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on June 8, 2023).

LEBLANC J.A.

[1] This is an appeal from an order of the Federal Court (*per* Ayles J.), dated July 8, 2022 (Court file no T-1557-21), striking in its entirety, without leave to amend, the appellant's Statement of Claim filed on October 14, 2021.

[2] In this action, the appellant seeks damages and other relief from the respondent in respect of torts allegedly committed by various Crown officials, both federal and provincial. Central to his claim is the allegation that since 2007, he has been the target, in Canada, via government officials, of “chronic supervised organized crime [...] under cross-border conspiracy”. The Statement of Claim focuses on events that allegedly occurred upon the appellant’s arrival in Canada on September 13, 2021, at Pearson Airport, where he claims having been directed to secondary examination, that his luggage was searched and damaged, that he was harassed and threatened with false arrest by the Peel Regional Police Service, and that he was placed in federal quarantine against his will. He further alleges that while in quarantine, his quality of life deteriorated while also experiencing heavy attack on his Iphone resulting from a Canada-US conspiracy directed at him.

[3] The Federal Court granted the respondent’s motion to strike on the basis that (a) it is plain and obvious, assuming the facts as pleaded are true, that the Statement of Claim discloses no reasonable cause of action; (b) the appellant has failed to plead with sufficient detail the constituent elements of each and every cause of action raised therein, including those based on the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (U.K.)*, 1982, c. 11; (c) the Statement of Claim is replete with unfounded and inflammatory attacks on the judiciary as well as with bald pleas of broad cross-border conspiracies, rendering it abusive, vexatious and scandalous and making it impossible for the respondent to know how to answer it; (d) there exists no common law cause of action for breach of the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6 and no common law

tort for breach of privacy; and (e) the Federal Court lacks jurisdiction over the appellant's claims against the Peel Regional Police Service.

[4] Orders made on motions to strike brought under subsection 221(1) of the *Federal Courts Rules*, SOR/98-106 are discretionary in nature (*Lafrenière v. Canada (Attorney General)*, 2020 FCA 110 at para. 2; *Feeney v. Canada*, 2022 FCA 190 at para. 4). In order to intervene in such matters, this Court must be satisfied that the Federal Court erred on a question of law or committed a palpable and overriding error on a question of fact or of mixed fact and law (*Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235; *Hospira Healthcare Corporation v. Kennedy Institute of Rheumatology*, 2016 FCA 215). The palpable and overriding error standard is a highly deferential one, meaning that the Court will only interfere with the impugned order where the alleged error is obvious and affects the outcome of the case (*Benhaim v. St-Germain*, 2016 SCC 48, [2016] 2 S.C.R. 352 at para. 38; *H.L. v. Canada (Attorney General)*, 2005 SCC 25, [2005] 1 S.C.R. 401 at paras. 55-56 and 69-70).

[5] After having carefully considered the appeal material and having heard the appellant's oral submissions, we are all of the view that this appeal cannot succeed. We are satisfied that the Federal Court applied the correct legal test as set out by the Supreme Court of Canada in *R v. Imperial Tobacco Canada Ltd.*, 2011 SCC 42, [2011] 3 S.C.R. 45 at paragraph 17 (*Imperial Tobacco*) in determining the respondent's motion to strike, and that it committed no palpable and overriding error, or any error for that matter, in applying that test to the impugned pleading. This test is the absence of any reasonable prospect of success. In other words, the Federal Court correctly identified the applicable legal principles and committed no error in concluding that the

Statement of Claim was replete with deficiencies that justified its summary dismissal and that could not be cured by amendments.

[6] The appellant's written submissions are more of a tirade against the Federal Court judge that decided the present matter, the Federal Court as an institution, the Canadian judiciary as a whole and what he calls "terrorist Canada", than anything else. In the end, the appellant has failed, either in his written material or at the hearing before us, to raise any reviewable error on the part of the Federal Court.

[7] As the Supreme Court explained in *Imperial Tobacco*, although motions to strike must be used with care, they remain a "valuable housekeeping measure essential to effective and fair litigation [as they] unclutter [sic] the proceedings, weeding out the hopeless claims and ensuring that those that have some chance of success go on to trial." (*Imperial Tobacco* at para. 19). In our view, they are such a valuable housekeeping measure in this case.

[8] We note in passing that the Federal Court, at paragraphs 8 and 17 of its reasons, underscored the fact that the appellant "is no stranger to [that] Court, nor to motions to strike his proceedings" and that he "has a history of using offensive, abusive, disrespectful and threatening language in his pleadings, submissions and correspondence with the Court". Unfortunately, the appellant's material before this Court is just another example of vexatious behaviour.

[9] The appeal will be dismissed, with costs to the respondent.

"René LeBlanc"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-164-22

STYLE OF CAUSE: SAJJAD ASGHAR v. HIS
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OF CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JUNE 8, 2023

**REASONS FOR JUDGMENT OF THE COURT
BY:** STRATAS J.A.
LEBLANC J.A.
GOYETTE J.A.

DELIVERED FROM THE BENCH BY: LEBLANC J.A.

APPEARANCES:

Sajjad Asghar FOR THE APPELLANT
SELF-REPRESENTED

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