

CITATION: Mohammad v. Bakr, 2024 ONSC 290
COURT FILE NO.: CV-22-00677347-0000
DATE: 20240112

ONTARIO SUPERIOR COURT OF JUSTICE

RE: Ahmad Mohammad, Plaintiff

-and-

Mohamed Bakr, Defendant

BEFORE: Robert Centa J.

COUNSEL: Ahmad Mohammad, self-represented

Chris McCormack, for the defendant

HEARD: January 11, 2024 (in writing)

ENDORSEMENT

- [1] Ahmad Mohammad commenced an action against Mohmed Bakr. On December 20, 2024, Mr. Mohammed appeared before me in Civil Practice Court. The defendant was represented by counsel. Mr. Mohammad indicated that he wished to schedule a motion for summary judgment. As the case was described to me, it became apparent to me that the case was related to another action, *Mohammad v. McMaster Security Services, Hamilton Police, and Hamilton Crown Attorney* (CV-23-00692952-0000), which I dismissed on September 11, 2023, pursuant to rule 2.1 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg 194.
- [2] Based on Mr. Mohammad's description of this claim, I expressed my concern that the action may be frivolous or vexatious or otherwise may be an abuse of the process of the court. On my own initiative under rule 2.1.02 of the *Rules of Civil Procedure*, I notified Mr. Mohammad that I was considering dismissing his action on that basis. I requested a copy of his notice of motion and provided him an opportunity to provide written submissions addressing my concerns. Pending receipt of his submissions, I stayed the proceeding pursuant to s. 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.
- [3] On January 5, 2024, Mr. Mohammad provided materials as I had directed. This included a notice of motion for leave to appeal my endorsement from December 20, 2023, which invited him to provide written submissions. I have treated that notice of motion and motion record as his submissions to me. I have now reviewed the statement of claim and Mr. Mohammad's motion record for the motion he intended to bring. For the reasons that follow, I dismiss the action pursuant to rule 2.1 as frivolous, vexatious, and an abuse of the court's process.

Rule 2.1

- [4] Rule 2.1.01 permits the court to stay or dismiss an proceeding if the proceeding appears on its face to be frivolous or vexatious or otherwise an abuse of process of the court. In *Gao v. Ontario (Workplace Safety and Insurance Board)*, 2014 ONSC 6100, Myers J. explained:

Rule 2.1 is not meant to apply to close calls. It is not a short form of summary judgment. But that does not mean that it is not to be robustly interpreted and applied. Where a proceeding appears on its face to meet the standards of frivolous, vexatious or an abuse of process, the court should be prepared to rigorously enforce the rule to nip the proceeding in the bud. Rigorous enforcement of this rule will not only protect respondents from incurring unrecoverable costs, but should positively contribute to access to justice by freeing up judicial and administrative resources that are so acutely needed to implement the “culture shift” mandated by the Supreme Court of Canada. The new rule tailors appropriate procedural fairness for the category of cases involved and is an example of early resolution of civil cases that is very much in line with the goals set out in Hryniak.

- [5] The Court of Appeal approved of this approach in *Scaduto v. Law Society of Upper Canada*, 2015 ONCA 733.
- [6] A frivolous or vexatious motion lacks a legal basis or legal merit or has been brought without reasonable grounds. Frivolous and vexatious proceedings are often identified by, among other features, their multiplicity and their use of rambling language which makes discerning a legitimate cause of action very difficult: *Van Sluytman v Orillia Soldiers' Memorial Hospital*, 2017 ONSC 692, at para. 11.
- [7] The court is not to use rule 2.1.01 for close calls. However, neither the opposing parties nor the court should be required to devote scarce resources to proceedings or motions that are clearly frivolous and vexatious. Allowing such proceedings to occupy space on the court docket takes time away from other, more meritorious cases. There is simply no benefit to allowing clearly frivolous and vexatious proceedings to continue: *Dunning v. Colliers Macaulay Nicolls Inc.*, 2023 ONSC 73, at para. 26; *Foley v. Victoria Hospital London Health Services Centre*, 2023 ONSC 4978, at para. 5.
- [8] I find that Mr. Mohammad’s action is frivolous, vexatious, and an abuse of the court’s process.
- [9] First, some of the allegations against Mr. Bakr appear to relate to statements Mr. Bakr made in a court proceeding. Such statements are protected by absolute privilege and cannot be the subject of a civil claim: *Samuel Manu-Tech Inc. v. Redipac Recycling Corporation*, 1999 CanLII 3776 (Ont. C.A.). Claims based on evidence in affidavits or in-court testimony are frivolous, in that they have no chance of success.

[10] Second, the claim is rambling and difficult to understand. It contains a significant amount of narrative that has nothing to do with Mr. Bakr. For example, Mr. Mohammad includes in the statement of claim a story about dropping a magnet when he was five years old and how that launched his “investigative journey towards the extra physical dimensions.”

[11] Third, most of the relief sought in the statement of claim is not available in a civil action. Much of the relief sought seems to have little if anything to do with Mr. Bakr. Mr. Mohammad pleads as follows:

The reliefs are not meant to be achieved exclusively by the defendant (unless it's directly requested); but since he is fully aware about the situation, and he is responsible for the losses; I will accept his supervision as a part of the mediation process until my PhD degree is conferred [*sic*]:

1- To assign Prof. Aboelmagd Noureldin and Prof. James Reilly as mediators.

2- To immediately write a formal letter of apology to myself and my sisters Esraa Mohamed and Fatama Yousef.

3- To immediately speak to the external examiners (two German and one American professors - experts in cognitive vision and neuroscience) who accepted to examine my PhD thesis – the thesis is articulated in the end of 2019.

4- To articulate, submit, and pay the publications fee for my extended “edge detection” paper to IEEE Sensors journal with explanation to the editor the reasons of the delay (three years of delay).

5- To immediately write recommendation letter to Dr. Kate Harkness; so that my application will be strengthened to: Psychology Jobs [email address omitted] cc: Kate Harkness [email address omitted]

A recommendation letter to Dr. Harkness from my master's supervisor is attached.

6- To pay the fees of the co-authored conference paper, 2018 (400.00 CAD).

7- To pay the fees of my psychotherapy sessions; and the issues related to dental and cardiac.

8- To pay all of the upcoming legislation fees to any of the related matters.

[12] Fourth, the statement of claim contains a series of rhetorical questions, which are a hallmark of a pleading that may be dismissed under rule. 2.1: In their annotation to rule 2.1 in, the Hons. Todd Archibald, Stephen Firestone and Tamara Sugunasiri, *Ontario Superior Court Practice*, annotation to rule 2.1. For example, Mr. Mohammad pleads as follows:

The charges articulated by peace officer, S. Hewitson, see exhibit J (see the red box), are just to avoid the requested scientific investigations, the security cards investigations, and the IT investigations against Robert Bruce Milliken requested by me to the school of graduate studies back to Feb 3rd, 2019. Many elements in the charge's synopsis are either lies and out of context. For example, the author said; I had made false accusations against Robert Bruce Milliken. How to judge whether the accusations are false while the university had requested from all of the research integrity and ethics avenues to close their doors from receiving any evidence from myself, my sisters, or even my friends who are members of McMaster community members? How to judge they are false accusations without allowing the 47 (forty-seven) human subjects (students at McMaster) who had been tested on the same experiment to be questioned for over three years? How to judge they are false accusations without bringing an independent scientific investigator with background in the field? Hear the voice recordings for better understandings dated: January 18th, 2019.

[13] Finally, I note that the claims in this pleading overlap significantly with the claims in *Mohammad v. McMaster Security Services, Hamilton Police, and Hamilton Crown Attorney* (CV-23-00692952-0000), which was also dismissed pursuant to rule 2.1.

[14] I find that this action is frivolous and vexatious. I dismiss the action under rule 2.1.01.

Robert Centa J.

Date: January 12, 2024