IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Parhar v. British Columbia (Attorney General),* 2021 BCSC 700

Date: 20210416
Docket: S233120
Registry: New Westminster

Between:

Makhan Singh Parhar
(Also known as I:Man:Mak of the Parhar Family)

Plaintiff

And

John Horgan, Adrian Dix, Dave Jansen, David Eby and Adrien Switzer

Defendants

Before: The Honourable Mr. Justice Blok

Reasons for Judgment

The Plaintiff, appearing in person:	M.S. Parhar
Counsel for the Attorney General of British Columbia	M. G. Goodwin J. Van Camp
Counsel for Dave Jansen:	A.K.M. O'Connor
Counsel for Adrienne Switzer:	A. Patel
Place and Date of Hearing:	New Westminster, B.C. April 8, 2021
Place and Date of Judgment:	New Westminster, B.C. April 16, 2021

I. Introduction

[1] The Attorney General of British Columbia ("AGBC"), on behalf of certain defendants and supported by the other defendants, applies to strike the plaintiff's claim on the grounds that it is frivolous and vexatious and discloses no reasonable claim.

[2] The AGBC and the other defendants argue that the claim is nonsensical and bears many of the hallmarks associated with "organized pseudolegal commercial argument" ("OPCA") litigants, a term coined by Associate Chief Justice Rooke in *Meads v. Meads*, 2012 ABQB 571 [*Meads*]. They say the claim falls within each and all of the grounds for striking a claim that are set out in Rule 9-5(1) of the *Supreme Court Civil Rules* [*Rules*], so it should be struck without leave to amend, and the action dismissed.

[3] The plaintiff rejects any suggestion that he is bound by, or that this proceeding is any way subject to, the *Rules* or, for that matter, even most societal conventions, including how he is to be referred to or addressed. For the sake of simplicity I will refer to him as the "plaintiff" and to the other set of parties as the "defendants" although I fully appreciate that he rejects those terms and in his initiating document he utilized his own terms. Similarly, he rejects the use of the name that was bestowed upon him at birth ("Makhan Singh Parhar"), viewing it as an artificial construct that does not identify him as a person. Instead, he stylizes his name in a fashion associated with OPCA litigants ("i:man:Mak of the Parhar family").

[4] The defendants are John Horgan, the Premier of British Columbia; Adrian Dix, the Minister of Health for the Province of British Columbia; David Eby, the Attorney General of the Province of British Columbia; Dave Jansen, the Chief Constable of the New Westminster Police Department; and Adrienne Switzer, a Crown lawyer with the Public Prosecution Service of Canada.

II. Background

[5] This matter has its genesis in charges brought against the plaintiff for alleged breaches of the *Quarantine Act*, S.C. 2005, c. 250, which are said to have been committed on each of October 31, November 1 and November 2, 2020. From information provided at this hearing, it appears the plaintiff was arrested and placed into custody, where he spent four days in jail before being released. The plaintiff said he brought this proceeding as a result of those events.

III. The Proceeding

[6] This proceeding was commenced on November 13, 2020, using a form of notice of civil claim that properly reflects the style of Form 1 from the *Rules*, but on which the plaintiff has written “I use this form only for ease of court clerk filing purposes”. At the hearing, he objected to any references to this document being a “notice of civil claim" as he maintains that neither he nor this proceeding is in any way bound by the *Rules*.

[7] In the plaintiff’s initiating document, he refers to himself as “prosecutor" and to the defendants as “people”, and not as “plaintiff” and “defendants”. The statement of facts within the Form 1-type document consists of five words: “trespass” and “administr[ated] property without right”. For simplicity, I will at times refer to this document as the “NOCC” though I acknowledge the plaintiff rejects that term.

[8] Attached to the NOCC are the following:

a) A document entitled “Notice: Liability", in which a number of declarations are made concerning the rights of “we the people” to the courts and courthouses, as well as other matters;

b) A “statement of claim", which bears the heading “In Parhar Court” and which is in the form of a notice “to the people” (that is, to the defendants) that “a claim of trespass and common law court” has been filed against them, and making assertions of jurisdiction of the “Parhar Court”;

c) A document entitled “Claim: Trespass": which makes a number of declarations and claims of a pseudolegal nature; and

d) Three exhibits: a copy of a release order directed to Makhan Singh Parhar, dated November 3, 2020, and copies of two *Offence Act*, R.S.B.C. 1996, c. 338, tickets.

IV. The Applications

[9] On January 12, 2021, counsel for the AGBC filed a requisition asking that a registrar review the NOCC filed in this action and refer it to the Court for review under Rule 9-5(3), “to consider an order to strike the plaintiff's notice of civil claim under Rule 9-5(1)”. This requisition was brought to the attention of a Supreme Court judge, who by a note dated January 21, 2021 rejected the request, noting that it was “a novel use of the Rule”, and indicating that the AGBC should makes submissions on notice to the plaintiff.

[10] The AGBC then filed, on March 23, 2021, the notice of application that is the subject of these reasons. In that notice of application, the AGBC seeks an order striking the claim in its entirety, without leave to amend, and dismissing the action against all named defendants.

[11] The application of the AGBC was supported by the defendants Dave Jansen and Adrienne Switzer, who are represented separately. Both filed application responses to that effect. The plaintiff did not file an application response.

V. Positions of the Parties

A. AGBC

The Standing of the AGBC

[12] Counsel for the AGBC noted that although the Attorney General himself is named as a party, the standing of the AGBC to bring this application is not limited to merely defending himself, as indicated by the wording of s. 2(c) of the *Attorney General Act*, R.S.B.C. 1996, c. 22:

> 2. The Attorney General
>
> > (c) must superintend all matters connected with the administration of justice in British Columbia that are not within the jurisdiction of the government of Canada,

[13] The AGBC relies on this section as giving him standing to address this matter more generally, as he is given the responsibility for "the sound keeping and well-being of the administration of justice in the province" and to safeguard the courts and judicial system against abuses. I accept that submission.

The Application to Strike the Claim

[14] As to the claim itself, the AGBC notes the plaintiff purports to bring this claim in "Parhar Court", to appoint himself as "prosecutor", and to declare that the *Rules* do not apply either to him or to his claim. The assertions made within the claim include:

> No obligation [contract] exists 'Quarantine Act' or any codes statutes bylaws apply to i
>
> no man or woman is the property of fictions [corporations] or public servants
>
> Contract [obligation] makes the law between people
>
> legal jurisdiction does not apply to a man or woman [people] only lawful [common law]
>
> [Brackets in original.]

[15] The AGBC notes the plaintiff sent other documents ("Notices") with his claim, naming all of the defendants as well as the Provincial Court judge who signed the release order. Those Notices allege trespass, malfeasance, extortion, terrorism, kidnapping and fraud, and one of the Notices challenges the jurisdiction of the courts. Although these documents do not form part of the NOCC, they nonetheless provide additional context.

[16] The AGBC referred to *Meads*, a case in which Rooke A.C.J. comprehensively listed, discussed and refuted various arguments or features common to OPCA litigants and their claims, and noted the similarities between those features and those in the case at bar. These included certain name or naming motifs, unconventional markings (thumbprints in red ink, as was done here), the rejection of

the authority or jurisdiction of conventional courts, declarations that only certain types of law apply (for example, common law, or laws that have only adhered to parties through their express agreement), and invoking contract concepts to all obligations, including legislation.

[17] The AGBC went through each of the grounds listed under Rule 9-5(1) and submitted that the plaintiff's claim: (1) disclosed no reasonable cause of action; (2) was embarrassing in the legal sense of that term; (3) was frivolous and vexatious; and (4) was an abuse of process.

Submissions on Procedure

[18] The AGBC submits the Court was wrong to reject its request, made by requisition, to have a registrar refer the NOCC to the Court so that a judge or master could consider striking the claim without notice to the plaintiff. The AGBC argues that Rule 9-5(3) permits litigants to make applications to the registrar in this way, and that such a process would be an efficient way to eliminate nuisance claims.

[19] The AGBC says having a process that strikes pleadings at the outset of an action would promote the speedy, inexpensive and just determination of matters because excluding patently meritless claims promotes efficiency and proportionality. Similar processes are in place in Ontario and Alberta, and interpreting Rule 9-5(3) in this way would also promote a harmonious approach across jurisdictions.

[20] The AGBC submits that putting defendants to the time, expense and inconvenience of having to apply to strike frivolous claims exacerbates the waste of time and resources that these types of frivolous proceedings create.

B. Other Defendants

[21] On behalf of the defendant, Ms. Switzer, counsel adopted the submissions and general principles as outlined by the AGBC. However, counsel also made additional submissions based on the *assumption* that the plaintiff's claim was a claim for malicious prosecution, something that is not expressly stated in the NOCC.

[22] Counsel emphasized that decisions taken by a Crown attorney pursuant to his or her prosecutorial discretion are generally immune from judicial review, subject only to the strict application of the doctrine of abuse of process: *Miazga v. Kvello Estate*, 2009 SCC 51 [*Miazga*], at para. 6. Abuse of process in this context means there must be proof that "the prosecutor's conduct was fuelled by 'an improper purpose or motive, a motive that involves an abuse or perversion of the system of criminal justice for ends it was not designed to serve'": *Miazga*, at para. 7.

[23] Counsel noted that, here, no facts have been pleaded that are capable of supporting any personal liability against Ms. Switzer.

[24] Counsel for Chief Constable Jansen adopted the submissions of the AGBC.

C. The Plaintiff

[25] The plaintiff argued that the four opposing counsel had no standing to speak in this "common law proceeding" that he has created. He said the other parties (the defendants) have dragged the "Parhar Court" into a fraudulent civil court whose rules do not apply to him.

[26] The plaintiff said he has been harmed by being arrested, "kidnapped" and locked up for four days, yet he harmed no one, and so he is looking for justice from the Parhar Court, which he says is a "common law" court. He indicated he filed his proceeding in this Court because he needed access to a courthouse, a courtroom and a judge in order to "open up" the Parhar Court.

[27] The plaintiff interrupted his submissions at one point in order to yield the floor to a colleague, who made a few remarks, though the colleague emphasized he does not act for the plaintiff. These comments were generally to the effect that the plaintiff has a right to a trial by jury so that he may be judged by the people, and that this Court and its rules have no jurisdiction. He said "contract makes the law" and the plaintiff had not consented, which I took to mean the plaintiff had not consented to be subject to the provisions of the *Quarantine Act* or the *Rules*.

VI. Discussion

A. The Application to Strike

[28] I begin by setting out Rule 9-5(1), which applies to all non-family civil proceedings in Supreme Court:

> (1) At any stage of a proceeding, the court may order to be struck out or amended the whole or any part of a pleading, petition or other document on the ground that
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> (a) it discloses no reasonable claim or defence, as the case may be,
>
> (b) it is unnecessary, scandalous, frivolous or vexatious,
>
> (c) it may prejudice, embarrass or delay the fair trial or hearing of the proceeding, or
>
> (d) it is otherwise an abuse of the process of the court,
>
> and the court may pronounce judgment or order the proceeding to be stayed or dismissed and may order the costs of the application to be paid as special costs.

[29] I agree with the AGBC that the plaintiff's initiating document has many hallmarks of OPCA litigation. Indeed, its entire content is OPCA-based. It is patently absurd and nonsensical. It is difficult to understand how anyone could come to believe any of its concepts.

[30] In *Robert John: of the familymacmillan v. Johannson*, 2017 BCSC 1069, a case that had similar features to those in this case, I commented as follows:

> [10] It is obvious that the plaintiff relies on the very type of baseless pseudo-legal arguments that Associate Chief Justice Rooke discussed at length in *Meads v. Meads*, 2012 ABQB 571. Simply put, these sorts of arguments are sheer and utter nonsense. It is hard to know whether to condemn the proponents of these preposterous arguments or whether to sympathize with them for having been duped by others into believing them, but the result is the same. These arguments have never been successful in any court, and they have never been successful because they are, as I have said, sheer and utter nonsense.

[31] I am not without sympathy for the plaintiff. He spent four days in jail, evidently the result of alleged breaches of the *Quarantine Act*, and it appears this occurred because someone convinced him, or he convinced himself, that statute law does not apply to him. It was a hard way to learn that laws do not work on an "opt-in" basis.

[32] In any event, the plaintiff still has the opportunity to challenge the *Quarantine Act* offences that have been alleged against him, which hopefully he will do on more conventional grounds, as it is my understanding that a trial has now been set in Provincial Court for those matters.

[33] To return to the subject at hand, I am satisfied that the plaintiff's claim falls within each of the grounds set out in Rule 9-5(1). Specifically:

a) The plaintiff's claim does not set out any assertions of fact on which he bases his claim, and so it does not disclose any reasonable claim;

b) It is frivolous and vexatious insofar as it denies the authority of the Court. Such a denial is intrinsically frivolous and vexatious: *Meads*, at para. 556;

c) It is embarrassing or scandalous, in the legal sense of those terms, because it does not set out the real issues in any intelligible form and contains assertions and declarations that make it impossible to respond to the claim: *The Public Guardian and Trustee of British Columbia v. Johnston*, 2016 BCSC 1388, at para. 52; and

d) It is an abuse of process insofar as the plaintiff has filed his initiating document as an attempt not to litigate legitimately in this Court, but instead to utilize this Court's infrastructure for the purposes of his fictional court.

[34] These flaws are irremediable, and so I order the plaintiff's NOCC struck without leave to amend, and I further order that the action be dismissed.

B. Procedure Under Rule 9-5(3)

[35] I turn now to address the AGBC's argument that litigants should be able to invoke Rule 9-5(3) by asking a registrar to refer a pleading to the Court.

[36] Rule 9-5(3) reads as follows:

> (3) If, on the filing of a document, a registrar considers that the whole or any part of the document could be the subject of an order under subrule (1),

> (a) the registrar may, despite any other provision of these Supreme Court Civil Rules,
>
> (i) retain the document and all filed copies of it, and
>
> (ii) refer the document to the court, and
>
> (b) the court may, after a summary hearing, make an order under subrule (1).

[37] The AGBC says a litigant can invoke this process by filing a requisition. I do not agree.

[38] What Rule 9-5(3) describes is a registry process, not a litigation process that may be initiated by litigants. It gives registrars – and here, it must be borne in mind that these typically will be lay registrars, not judicial registrars – the ability, *in their discretion*, to refer a document to the Court if they consider that it could be the subject of an order under subrule (1), which I reproduced earlier. The fact that it is discretionary suggests it is available to a registrar to exercise on his or her own initiative, but that it is *not* exercisable merely on the request of a party. The subrule does not say, for example, that parties may ask a registrar to exercise the discretion in their favour, which essentially is what the AGBC submits. Instead, Rule 9-5 sets out a different process available to litigants, that of making an application, as provided for in subrule (1).

[39] I am reinforced in my conclusion by two further matters:

a) Rule 9-5(3)(a)(i) says the registrar may "retain the document and all filed copies of it", which of course is not possible if the document is already in the hands of opposing parties, as it was here; and

b) The subrule has never been used or implemented at the behest of a litigant in the manner submitted by the AGBC, as inquiries have confirmed.

[40] In support of his submission, the AGBC refers to commentary on the subrule found in McLachlin and Taylor, *British Columbia Practice*, 3rd ed. by Frederick Irvine, (Markham, Ont.: LexisNexis Canada Inc., 2006; electronic version current to Release 76, April 2021), which reads as follows:

> Rule 9-5(3) appears to anticipate that the Registrar will refer the endorsement, pleading, petition or other document to a judge of the court on his or her own motion. There would, however, appear to be no impediment to the Registrar so doing upon the oral or written application of a party.

[41] The first sentence is correct. The supposition in the second sentence is not, as my earlier analysis demonstrates.

[42] The AGBC also refers to the practices in Ontario and Alberta, but these have no application here as those provinces have their own court rules and practices. Ontario, for example, expressly allows a party to a proceeding to "file with the registrar a written request for an order" dismissing a proceeding on the grounds that it is frivolous or vexatious or an abuse of process: *Ontario Rules of Civil Procedure*, Rule 2.1.01(6). Our *Rules* do not say that. Also, Ontario procedure requires that notice be given to the plaintiff, with the plaintiff having an opportunity to make submissions before any order is made, a process that would not be followed here if the AGBC's submissions were to be accepted.

[43] In Alberta, Rooke A.C.J. prescribed in *Meads* (at para. 256) a special process for dealing with documents that show OPCA indicia. As Associate Chief Justice of the Court of Queen's Bench of Alberta, he presumably had the administrative authority to do that. I do not.

[44] While the AGBC suggests there is inadequate screening of these sorts of troublesome proceedings – something that he would do well to take up through other channels – in practice, these matters are often screened at the time of filing because they are commonly accompanied by an application for a waiver of the filing fees, which is an application that must go before a master or judge. At that point, the master or judge must consider whether the matter discloses no reasonable claim or defence, is scandalous, frivolous or vexatious, or is otherwise an abuse of process of the Court: Rule 20-5(1).

VII. Conclusion

[45] In summary, the plaintiff's notice of civil claim or, to describe it more neutrally, the plaintiff's initiating document, is struck without leave to amend, and the action is dismissed against all defendants.

[46] The AGBC seeks costs, and submits that costs should be awarded in lump sum at $1,000.

[47] The usual rule is that costs are awarded to the successful party. No reason has been shown for the usual rule not to apply here. Even indigent parties are not immune from an award of costs, as noted in *Thomson v. British Columbia (Interior Health)*, 2020 BCSC 1591, where Mr. Justice Dley said:

> [26] … Costs are one way of ensuring that unsuccessful litigants understand that there is a risk to bringing an action. An indigent litigant ought not to assume that he or she is immune to cost consequences.

[48] I am satisfied that the AGBC should have costs. Rule 14-1(15) allows for costs to be awarded in lump sum. I conclude that lump-sum costs are appropriate here as there is a prospect of further unnecessary expense should the matter have to go to a registrar's assessment. I fix those costs in the amount of $750.

[49] I dispense with the requirement that the plaintiff approve the order as to form, but I direct counsel to ensure that the draft order is brought to my attention so that I may review it before it is filed.

"Blok J."