

IN THE SUPREME COURT OF THE YUKON TERRITORY

Citation: *Presley v. MacCauley et al.*, 2003 YKSC 15

Date: February 27, 2003
Docket No.: S.C. No. 02-A0033
Registry: Whitehorse

Between:

Elvis A. Presley

Plaintiff

And:

Lawrence MacCauley (Solicitor General of Canada)
Shirley Heafey (Chairman of R.C.M.P. Public Complaints Commission)
Simon Wall (Analyst for The R.C.M.P. Public Complaints Commission)
Bernie Agg (Analyst for The R.C.M.P. Public Complaints Commission)

Defendants

Appearances:

No one appearing for the Plaintiff

Mark Radke, Counsel for the Defendant MacCauley

Before: Mr. Justice J.E. Richard

REASONS FOR JUDGMENT

[1] The defendant, Lawrence MacCauley (Solicitor General of Canada), seeks relief from the court on account of the latest in a series of frivolous and vexatious lawsuits commenced by Elvis A. Presley. For the reasons which follow, I find there is merit in the defendant's application.

[2] Eight years ago, during the course of a criminal investigation involving Mr. Presley, an R.C.M.P. officer, Cpl. Doug Reti, made certain statements regarding

Mr. Presley. Mr. Presley alleged that those statements, which were contained in a written report to Crown counsel, were defamatory of him. He then commenced a series of legal proceedings against Cpl. Reti and others. At the core of each legal proceeding is the same subject matter – his complaints against Cpl. Reti. Each proceeding has been dismissed.

[3] In 1995, in action 95-A0138, Mr. Presley commenced a defamation lawsuit against Cpl. Reti and the Attorney General of Canada. Following a trial in March 1998, Beaulieu J. of this court dismissed the action with costs against Mr. Presley. These costs were taxed at \$13,505.25 and remain unpaid.

[4] Mr. Presley appealed the decision of Beaulieu J. to the Court of Appeal. The appeal was dismissed with costs in December 1999 for want of prosecution.

[5] Also in 1995, Mr. Presley swore informations alleging the commission of criminal offences by Cpl. Reti. The informations were sworn before a judge of the Territorial Court; however in detailed written reasons the Territorial Court judge, acting under the *Criminal Code*, declined to issue process on the sworn informations. Mr. Presley, in action 95-A0205, then commenced a civil lawsuit against the Territorial Court judge. Mr. Presley's Statement of Claim was struck as not disclosing any cause of action by Tallis J. of this court in March 1996. Costs were ordered against Mr. Presley.

Mr. Presley's appeal to the Court of Appeal was dismissed in October 1996 for want of prosecution.

[6] In November 1996, in Action 96-A0240, Mr. Presley commenced a lawsuit against the R.C.M.P. Public Complaints Commission. This action was dismissed by Vertes J. of this court in June 1997 as not disclosing a cause of action.

[7] In November 1998, in action 98-A0223, Mr. Presley filed a Statement of Claim against Cpl. Reti and the Attorney General of Canada claiming, *inter alia*, damages in the amount of one hundred million dollars. In December 1998, in action 98-A0270, Mr. Presley filed yet another Statement of Claim against Cpl. Reti and the Attorney General of Canada claiming, *inter alia*, damages of two hundred million dollars. Both of these Statements of Claim were struck by order of Maddison J. of this court in March 1999 as not disclosing a cause of action, as being vexatious and as being an abuse of the court's process. Costs were ordered against Mr. Presley.

[8] In January 2000, in action 99-A0249, Mr. Presley commenced a new lawsuit against Cpl. Reti, this time seeking, *inter alia*, damages of \$9,999,999.00. The action was struck by order of Moreau J. of this court on February 28, 2000, on the basis that it disclosed no reasonable cause of action, was frivolous and vexatious and was an abuse of the court's process. The concluding words of Justice Moreau were as follows:

... I note that there is a substantial cost award outstanding against the Plaintiff from the earlier proceedings and that each court attendance made necessary by the Plaintiff's institution of further proceedings addressing the same issues involves costs to the taxpayer. It may be appropriate to explore whether these factors do, at some point, provide the necessary underpinnings for an application, on appropriate notice to the Plaintiff, to prohibit the Plaintiff from instituting further proceedings without leave.

[9] During this time frame, Mr. Presley has also commenced separate legal proceedings against certain Whitehorse lawyers because of their representation of defendants in lawsuits commenced by Mr. Presley. These proceedings, also, have been unsuccessful.

[10] A reading of the Reasons for Judgment of each of Beaulieu J., Tallis J., Vertes J., Maddison J. and Moreau J. readily allows one to glean the frivolous and vexatious and abusive nature of this serial litigation.

[11] The within action 02-A0033 was commenced by Mr. Presley on May 29, 2002. The named defendants are the Solicitor General of Canada and the chairperson and certain employees of the R.C.M.P. Public Complaints Commission. The Statement of Claim is prolix and mostly gibberish. It is difficult to make sense of it, other than references to some sort of historical complaints Mr. Presley has against Cpl. Reti. If there is a cause of action against Lawrence MacCauley contained within the pleading, I cannot find it. The Writ of Summons and Statement of Claim must be struck as disclosing no cause of action, as being frivolous and vexatious and as being an abuse of the court's process.

[12] The application before the court is set forth in a Notice of Motion filed December 13, 2002. The defendant Solicitor General of Canada seeks a dismissal of the action and also an order precluding Mr. Presley from commencing any further legal proceedings against the Government of Canada, its officers and servants without first obtaining leave of the court and/or until such time as Mr. Presley has paid all cost awards previously made against him.

[13] The defendant's Notice of Motion, initially returnable January 13, 2003, was served on Mr. Presley in December. Mr. Presley advised the Court Registry that he was not available on January 13 and wanted an adjournment. The defendant's application was accordingly re-scheduled for February 26 at 10:00 a.m. and Mr. Presley was so advised. Mr. Presley sought, through the Registry, a further adjournment; however

Mr. Radke, counsel for the defendant MacCauley would not agree to a further adjournment. Mr. Presley responded by filing a lengthy affidavit on February 7, 2003. Again, most of the contents of this affidavit are rambling gibberish. Notably, on three separate occasions within the affidavit, Mr. Presley asserts a threat against Mr. Radke personally, i.e., if Mr. Radke does not withdraw the Notice of Motion returnable February 26, Mr. Presley will sue Mr. Radke personally. This may or may not be irrational ramblings but it is certainly an improper use of the court process and ought to be condemned. It is symptomatic of the vexatiousness and abusiveness of this serial litigation.

[14] When the courtroom was called to order at 10:00 a.m. on February 26 to hear the within application, Mr. Presley was not in attendance. I was advised by both Mr. Radke and the Deputy Clerk that Mr. Presley had been in the courtroom moments earlier but had simply served Mr. Radke with documents and departed. Mr. Presley did not return to the courtroom though paged by the Deputy Clerk.

[15] The documents served on Mr. Radke are a Writ of Summons and Statement of Claim in yet another action, 02-A0189, commenced by Mr. Presley on February 21, 2003. The Attorney General of Canada and Mr. Radke personally are named as defendants. In the Statement of Claim, Mr. Presley seeks, *inter alia*, damages of \$120,000,000.00 in the event the February 26 application is heard and is determined in the defendant MacCauley's favour.

[16] On this application, counsel for the Solicitor General of Canada, with the (unknowing) assistance of Mr. Presley, has made the case for the extraordinary relief sought in the Notice of Motion.

[17] The court has inherent authority to control the court's own process and to prevent abuses of its process. In my respectful view, the exercise of that inherent authority is necessary here to prevent a continuation by Mr. Presley of his persistent abuses of this court's processes.

[18] I will mention that the intention of the court in this Order is to control only those proceedings against the Government of Canada, its officers and servants which in any way relate to the subject matter of the serial litigation referred to in these reasons, i.e., it is not intended to control new proceedings commenced by Mr. Presley against the Government of Canada, its officers or servants which are wholly unrelated to that subject matter. The issue of whether any new proposed proceeding is in any way related, or wholly unrelated, shall be determined by a judge of this court on the leave application.

[19] An order will issue as follows:

1. The Writ of Summons and Statement of Claim filed in the within proceedings are struck out pursuant to Rule 19(24) on the grounds of disclosing no reasonable claim, of being frivolous and vexatious and of being an abuse of the process of the court.
2. The defendant MacCauley shall have his costs of the application to be assessed as special costs.
3. The plaintiff Elvis A. Presley shall not commence any further legal proceedings against the Government of Canada, its officers and servants unless and until

a) he has provided evidence to the satisfaction of the Clerk of the Court that he has paid all costs awarded against him in the following proceedings:

- i) 95-A0138 (Supreme Court)
- ii) 98-YU406 (Court of Appeal)
- iii) 95-A0205 (Supreme Court)
- iv) 98-A0223 (Supreme Court)
- v) 98-A0270 (Supreme Court)
- vi) the within proceedings 02-A0033, and

b) he has obtained leave of a judge of this court to commence such new proceedings.

4. All proceedings in action 02-A0189 are stayed until such time as Mr. Presley obtains an order of a judge of this court, in accordance with paragraph 3 above, lifting the stay.

[20] It is not necessary for Mr. Presley to approve the form of the order.

Mr. Justice J.E. Richard