



**IN THE COURT OF APPEAL
OF NEWFOUNDLAND AND LABRADOR**

Citation: *Olumide v. Newfoundland and Labrador*,
2020 NLCA 2

Date: January 28, 2020

Docket Number: 201901H0029

BETWEEN:

ADE OLUMIDE

APPELLANT

AND:

HER MAJESTY THE QUEEN IN RIGHT
OF NEWFOUNDLAND AND LABRADOR

RESPONDENT

AND

Docket Number: 201901H0030

BETWEEN:

ADE OLUMIDE

APPELLANT

AND:

HUMAN RIGHTS COMMISSION OF
NEWFOUNDLAND AND LABRADOR

RESPONDENT

Coram: Welsh, Goodridge and Butler JJ.A.

Court Appealed From: Supreme Court of Newfoundland and Labrador
General Division 201801G4767 & 201801G5559

Appeal Heard: December 19, 2019
Judgment Rendered: January 28, 2020

Reasons for Judgment by: Welsh J.A.
Concurred in by: Goodridge and Butler JJ.A.

Counsel for the Appellant: Self Represented
Counsel for the Her Majesty the Queen in Right of Newfoundland and Labrador: Mark P. Sheppard
Counsel for the Newfoundland and Labrador Human Rights Commission: Carey Majid

Welsh J.A.:

[1] Ade Olumide commenced actions against Her Majesty the Queen in Right of Newfoundland and Labrador (the “Province”) and against the Newfoundland and Labrador Human Rights Commission (the “Commission”). In response, the Province and the Commission each brought an application to strike Mr. Olumide’s actions. The applications to strike were heard together.

[2] Rule 14.24(1) of the *Rules of the Supreme Court, 1986* provides for the striking of an action:

The Court may at any stage of a proceeding order any pleading, ... or anything therein, to be struck out ... on the ground that

(a) it discloses no reasonable cause of action ...;

(b) it is ... frivolous or vexatious;

...

(d) it is otherwise an abuse of the process of the Court,

and may order the proceeding to be stayed or dismissed or judgment to be entered accordingly.

[3] The applications judge struck both actions commenced by Mr. Olumide. In his oral decision, the judge summarized his reasons for determining that the actions were frivolous and vexatious and “fundamentally flawed”:

So the statements that are made in [Mr. Olumide’s] Originating Applications are more conclusory and accusations rather than formed or based in some fact or some evidence that’s put forward before the Court. In that sense, the whole of the document ... really makes no intellectual sense and from which no basis for a reasonable cause of action can be identified. I cannot glean any merit to the relief that is sought; and as I’ve indicated, I’m not making any issue of [that is, not considering] the question of standing.

...

... [T]his is a situation where it is plain and obvious to me that no cause of action is disclosed in whatever we call the Originating Applications. No facts were pleaded from which any cause of action known to law could be discerned or for which relief that was claimed could be, again, awarded.

The claims that are being asserted are baseless, they have no foundation, they have no rational connection to any of the remedies that are claimed, and they are clearly frivolous.

... Other litigants are looking for the Court’s time. All of this means that it is important that claims that come before the Court be properly structured and actually have a foundation and merit. Any abuse of process, therefore, ... where one finds themselves embroiled in litigation – unnecessarily in litigation, requires the other parties to reply and invest money in what would be unnecessary – otherwise unnecessary and improper litigation. It also deprives would be parties of access to the courts and judges. ...

[4] The question of whether Mr. Olumide, who is not a resident of the Province, would have standing to bring the actions that were struck out by the applications judge would be a first consideration on appeal but for the determination by the judge to forego that analysis in favour of addressing the substantive issue of whether the actions should be struck pursuant to rule 14.24. Given the nature of the appeal process and the applications judge’s decision, the focus of this judgment is whether the judge erred in striking Mr. Olumide’s actions. The question of standing need be considered only if it is determined that the judge erred in striking the actions.

[5] At the hearing of the appeal, Mr. Olumide provided the Court with several pages which, he submits, encapsulate his appeal. He refers to four “rules of law”:

1. Rule of law against arbitrary, overbroad, grossly disproportionate interpretation of Convention rights [incompatible with rights re “representative democracy ... constitutional principle” “genuine elections” “freely chosen representatives”].
2. Rule of law against arbitrary, overbroad grossly disproportionate interpretation of Convention rights [incompatible with “freedom of association”]. Freedom of association to join a party includes the representative democracy rights of members, individual right to membership benefits which includes the right to contest a party nomination and right to a seat in the party caucus to which a member is elected.
3. Rule of law against arbitrary, overbroad, grossly disproportionate interpretation of Convention rights [incompatible with “working conditions which respect dignity” “cruel and degrading” “arbitrary attack upon ... reputation”], reputation is also engaged because a political job is a public job, therefore an unjustified firing of a member from an elected public job is an attack on the member’s reputation which cannot be compared to an unjustified firing from a non-elected, non-public job.
4. Rule of law against arbitrary, overbroad, grossly disproportionate interpretation of Convention rights [incompatible with “political or other opinion” “difficulty of defining what constitutes a political crime or a crime of conscience” “political judgement”].

As well, a fifth item refers, without specifics, to discrimination against “Blacks”.

[6] In his written submissions, Mr. Olumide referred to section 70(4) of the *Elections Act, 1991*, SNL 1992, c. E-3.1. Section 70 deals with nomination papers to be filed by a person nominated to run in an election. Subsection (4) provides:

Before 2:00 p.m. on nomination day, a leader of a registered political party shall file with the Chief Electoral Officer a list containing the names of all the candidates who are endorsed by the party.

[7] There is no basis on which this provision could be engaged in this case. Mr. Olumide, who is not a resident of the Province, has not submitted that he sought a nomination for election to be endorsed by a political party in accordance with the *Act*. As discussed in the applications judge’s decision, Mr. Olumide’s submissions, to the extent they can be discerned, are simply theoretical in nature.

[8] Similarly, there is no basis provided for an action against the Commission. The claim alleges discrimination on the basis of race as a result of the failure of the Premier and the Attorney General of the Province to respond to emails Mr. Olumide sent to them regarding amendments he is petitioning to

have made to the *Canada Elections Act*. The Commission dismissed the complaint at the initial stages, as authorized pursuant to section 32(1)(a) of the *Human Rights Act, 2010*, SNL 2010, c. H-13.1.

[9] The above points submitted by Mr. Olumide demonstrate what the applications judge was referring to when he concluded that Mr. Olumide's actions were without discernable foundation. The submissions are conclusory and accusatory, and are not grounded in facts or evidence that would provide a basis on which a cause of action could be identified.

[10] Having considered Mr. Olumide's written and oral submissions, I am satisfied that the appeal is without merit. Mr. Olumide has not demonstrated any basis on which to conclude that the applications judge erred in determining that the actions commenced by Mr. Olumide were frivolous and vexatious. It follows that the judge did not err in striking Mr. Olumide's actions pursuant to rule 14.24.

[11] Accordingly, I would dismiss the appeal. I would order that the Province is entitled to its costs of the appeal under column 3 of the scale of costs in the *Court of Appeal Rules*, and that the Commission, which took a less active role in the appeal, is entitled to its costs under column 1 of the scale of costs.

B. G. Welsh J.A.

I Concur: _____

W. H. Goodridge J.A.

I Concur: _____

G. D. Butler J.A.