

COURT OF APPEAL FOR ONTARIO

CITATION: Elbasiouni v. Brampton (City), 2020 ONCA 628

DATE: 20201002

DOCKET: M51783 (C65017 and C67931)

Fairburn A.C.J.O., Miller and Zarnett JJ.A.

BETWEEN

Ahmed Elbasiouni a.k.a. Ahmed Elbassiouni

Applicant

and

The Corporation of the City of Brampton

Respondent

Ahmed Elbasiouni, acting in person (with the assistance of Mohamed Elbassiouni)¹

Charles A. Painter for the respondent The Corporation of the City of Brampton in C65017

Barnet H. Kussner, for the respondent, The Corporation of the City of Brampton in C67931

Heard and released orally: September 25, 2020

REASONS FOR DECISION

¹ The appellant's brother, Mr. Elbassiouni, is a lawyer. While not the lawyer of record for this matter, Mr. Elbassiouni gave submissions on behalf of his brother with the panel's permission and his brother's consent.

[1] There are three matters listed for hearing today: (a) an appeal from an order declaring the appellant a vexatious litigant; (b) an application to adjourn that appeal; and (c) a Rule 2.1 application to dismiss an appeal from an order refusing to grant leave to take a step in litigation, which leave application was necessitated by the vexatious litigant order.

[2] The appellant seeks an adjournment of his appeal from the vexatious litigant order. He does so because an application to appoint a guardian for his property and care is being pursued in the Superior Court of Justice. Notably, the Superior Court has already heard and dismissed an application seeking the appointment of a litigation guardian on the appellant's behalf.

[3] The information placed before this court on the adjournment application includes additional evidence, beyond what was available to the court that heard the application for a litigation guardian. In specific, this additional information now includes a psychiatrist's report that addresses the perceived psychiatric status of the appellant. That report has only very recently been authored.

[4] The timing of this late-breaking new information is very troubling to this court. In part, we say this bearing in mind the findings of the application judge who dismissed the litigation guardian application. Specifically, he noted that the application to have a litigation guardian appointed was motivated by a desire for

delay. Even so, we note that the respondent fairly acknowledges that the new psychiatric report, despite troubling aspects, cannot be ignored by this court.

[5] In these circumstances, we are prepared to grant a brief adjournment so that the new application for a guardian for property and care may be pursued. This must be done with all diligence. We will adjourn for no more than 60 days to permit sufficient time for that application to be heard and decided in the Superior Court of Justice. This panel will remain seized of this matter. The parties will keep the court advised as to the progress of that application. There will be no further materials filed in this court without leave of the court. Both the Rule 2.1 application and the appeal C65017 will be heard at a date to be fixed by this court.

[6] The costs of this adjournment application and today's appearance will be dealt with at that time.

"Fairburn A.C.J.O."
"B.W. Miller J.A."
"B. Zarnett J.A."