

COURT OF APPEAL FOR ONTARIO

CITATION: M.E. v. Ontario, 2022 ONCA 714

DATE: 20221018

DOCKET: C69957

Fairburn A.C.J.O., Huscroft and George JJ.A.

BETWEEN

M.E.

Plaintiff (Appellant)

and

His Majesty The King in Right of Ontario, Children's Aid Society of Toronto,  
Giovanna Asaro and Ada Lee

Defendants (Respondents)

M.E., acting in person

Sheldon Inkol, for the respondent, Children's Aid Society of Toronto

Scott C. Hutchison, for the respondents, Giovanna Asaro and Ada Lee

Heard: in writing

Determination pursuant to r. 2.1 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 with respect to the appeal from the order of Justice Susan Vella of the Superior Court of Justice, dated April 19, 2021.

REASONS FOR DECISION

[1] By way of correspondence dated July 7, 2022, the parties were notified that the court has stayed the appeal in C69957 and indicated that it is considering making an order under r. 2.1.01 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 to dismiss the appeal. The appellant was asked for submissions as to: (1) why the appeal should not be dismissed; and (2) why the appellant's request to amend the title of proceedings in the case should be granted.

[2] The appellant provided her response on the first issue only. The respondents also provided submissions on the first issue. Of course, if the court dismisses the appeal, the request in the second issue need not be granted. These are our reasons for dismissing the appeal as frivolous, vexatious and an abuse of process.

[3] The underlying action was commenced by way of Statement of Claim issued on April 19, 2016, which was amended two years later. Within the action, the appellant brought a motion for contempt against a number of the respondents, including the Children's Aid Society of Toronto ("CAST"), who we will refer to as the "Contempt Respondents". The CAST opposed the motion and at the same time moved for summary judgment, as did the appellant and another defendant, then Her Majesty the Queen in Right of Ontario.

[4] The matter was heard in August 2019. The contempt motion was heard at the outset of the hearing of motions for summary judgment brought by the parties.

The motions for summary judgment by the respondents CAST and Ontario were granted and the action was dismissed: *M.E. et al. v. Her Majesty the Queen in Right of Ontario et al.*, 2019 ONSC 5138. The appellant's motion for contempt was also dismissed: *M.E. et al. v. Her Majesty the Queen in Right of Ontario et al.*, 2019 ONSC 5141. Costs were awarded against the appellant: *M.E. et al. v. Her Majesty the Queen in Right of Ontario et al.*, 2019 ONSC 7325. In June 2020, this court upheld the dismissal of the contempt motion as well as the finding on costs: *M.E. v. R.*, 2020 ONCA 289. Costs were again awarded against the appellant on the appeal from the dismissal of the contempt motion: *M.E. v. R.*, 2020 ONCA 429.

[5] At the same time, this court allowed the appeal from the summary judgment decision as it related to the action against the CAST on the narrow issue involving whether the CAST is liable in damages for the alleged wrongful disclosure of the appellant's pre-disposition report to third parties in 2013. That was the sole basis upon which the appellant's action was permitted to proceed. Costs were again awarded against the appellant. In total, the costs orders from both levels of court total \$22,500 and they have never been paid.

[6] The appellant did not seek leave to appeal from this court's decision.

[7] Following the release of this court's decision, the appellant attempted to relitigate the issues disposed of by this court before Vella J. of the Superior Court of Justice. The appellant also attempted to add new parties, specifically some of

the respondent's counsel, to the action. In her capacity as a case management judge, and having received written submissions from the parties, Vella J. dismissed the appellant's motion under r. 2.1.02(1) as frivolous, vexatious and an abuse of process: *M.E. et al. v. HMTQ et al.*, 2021 ONSC 2862. Included in the order, Vella J. required that before the appellant could file any further motions within the proceeding she would have to pay the outstanding costs, seek leave to file materials, and provide an affidavit setting out why the motion is meritorious.

[8] The appellant filed a Notice of Appeal from the order of Vella J. in this court on November 1, 2021. The appeal has not yet been perfected. Nor has an extension of time been sought.

[9] Even so, motions have been heard by this court. The appellant has sought various forms of relief in her outstanding appeal, including: (1) a sealing order; (2) leave to amend her pleadings; and (3) relief from compliance with the *Rules of Civil Procedure*. The proposed amendment involves adding another six lawyers as defendants to the action. On January 20, 2022, Tulloch J.A. dismissed the appellant's motions, including finding that there is no jurisdiction to amend the pleadings.

[10] The appellant seeks to have Tulloch J.A.'s decision reviewed by a panel of this court, but like the appeal, she has not perfected that motion. The appellant

also seems to be attempting to file a motion for “criminal contempt” against various parties, including counsel for various respondents on appeal and Crown counsel.

[11] In our view, this appeal is frivolous, vexatious and an abuse of process. Aside from the very concerning history of this matter, the failure to comply with court orders and *Rules*, the failure to pay costs, and the failure to perfect, the purported appeal is from a case management judge’s decision to dismiss a motion on the basis that the motion itself was frivolous, vexatious and an abuse of process. There was a good basis upon which to arrive at that conclusion. The motion was a clear attempt to relitigate what had already been decided by this court and the proposed new causes of action were devoid of merit.

[12] There is no arguable ground of appeal contained in the Notice of Appeal. It contains three extremely vague grounds: “miscarriage of justice for the second time”, “criminal law order conflicts with civil” and “intrinsic and extrinsic fraud on the court, orders obtained by fraud.” We can discern no errors of fact or law made by Vella J.

[13] Moreover, the appellant makes serious and baseless allegations about opposing counsel. These include that counsel have acted illegally and fraudulently, have misled and deceived the courts and have perpetrated psychological torture on her, as well as having “illegally modified” her file from when she was in care. They are also alleged to have concealed criminal conduct.

[14] In *Lochner v. Ontario Civil Police Commission*, 2020 ONCA 720, at para. 20, this court described many of the characteristics of a vexatious litigant, including: attempting to bring multiple proceedings; attempting to relitigate issues decided in past proceedings; failing to pay costs awards; pursuing proceedings where a reasonable person would not expect to receive the relief sought; and inappropriate conduct such as rambling and rhetorical submissions. These characteristics apply with equal force in this case.

[15] This court's email account is being barraged with communications from the appellant, including ones that complain about the "illegal practitioners" on the other side, accusing counsel of contempt of court, "obstruction, torture and perjury", claiming that the Attorney General of Ontario has committed "grave human rights violations" and asking for the CAST and the Crown's conviction in absentia.

[16] This has become another step in an entirely frivolous, vexatious and abusive matter. The appeal is dismissed pursuant to r. 2.1.01 with costs awarded to the CAST and the Contempt Respondents in the amount of \$3,500 all inclusive.

[17] As this court has consistently recognized, the court has implicit powers that derive from the court's authority to control its own process, to make procedural orders to prevent an abuse of process and to ensure the just and efficient administration of justice: see e.g. *Mukwa v. Farm Credit of Canada*, 2022 ONCA 320, at para. 24; *Lochner*, at para. 27. In order to prevent further abuses of process

in this court, the appellant will not be permitted to file any further materials in this court without leave of a judge of the court.

“Fairburn A.C.J.O.”  
“Grant Huscroft J.A.”  
“J. George J.A.”