

Federal Court



Cour fédérale

Date: 20190829

Docket: T-1323-18

Citation: 2019 FC 1108

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

Ottawa, Ontario, August 29, 2019

PRESENT: The Honourable Mr. Justice Lafrenière

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

And

**LÉOPOLD CAMILLE YODJEU NTEMDE
MARLYSE MBAKOP**

Respondents

JUDGMENT AND REASONS

[1] The applicant, the Attorney General of Canada (AGC), is asking that the respondents, Léopold Camille Yodjeu Ntemde and Marlyse Mbakop, be declared to be vexatious litigants, in accordance with section 40 of the *Federal Courts Act*, R.S.C. 1985, c. F-7. The AGC wishes for the respondents to be prohibited from instigating legal action before this Court without obtaining prior authorization from the Chief Justice.

[2] A similar motion has been filed simultaneously before the Federal Court of Appeal.

I. Background

[3] To establish the background of this judgment, I will repeat the facts as summarized by the applicant in his memorandum, which is part of a very voluminous record of more than 1,800 pages.

[4] From July 2014 until the date this present motion was filed, Mr. Yodjeu, alone or with Ms. Mbakop, filed three cases before this Court against, according to the record, the AGC, Her Majesty the Queen or Citizenship and Immigration Canada (CIC) as well as ten appeals before the Federal Court of Appeal, eight of which were against interlocutory orders.

[5] Essentially, the respondents' claims against the Canadian authorities result from the fact the sponsorship application of Mr. Yodjeu for the benefit of the applications for permanent residence (APRs) of his spouse, Ms. Mbakop, and their daughter, as well as the APRs themselves, were initially refused by CIC.

[6] Mr. Yodjeu and Ms. Mbakop feel aggrieved and have initiated several proceedings before this Court and other forums, including the Federal Court of Appeal, the Court of Quebec, the Human Rights Tribunal, the Office of the Public Sector Integrity Commissioner of Canada, and the Canadian Judicial Council, to obtain what they feels is rightfully theirs in the circumstances.

[7] At the time the present application was filed, in 13 of the proceedings they had initiated before the federal courts, the respondents had filed at least 83 motions, as well as a multitude of requests for direction, letters of argument, and other types of communications to which the AGC was required to reply and which the Courts were required to consider.

[8] To date, the three applications before this Court have been dismissed with costs. As for the proceedings initiated by the respondents before the Federal Court of Appeal, they were either dismissed or suspended indefinitely, as explained below.

II. Hearing of the motion

[9] At the hearing stage of a motion for declaration of vexatiousness, litigants have every opportunity to present their arguments. In accordance with an order issued June 24, 2019, the hearing of this motion was scheduled for August 22, 2019, for a duration of three hours.

[10] On August 14, 2019, Ms. Mbakop informed the Registry that she had decided to withdraw from all the ongoing proceedings. As a result, she was not present at the hearing.

[11] A so-called “chess-clock” timed proceeding was used at the hearing to ensure proper time management. The two parties each had 90 minutes for their arguments. After the hearing, Mr. Yodjeu attempted to file a new motion that contained a report of the hearing that he himself had drafted and that he claimed to have published on his Facebook page. He wrote, among other

things, that I, the undersigned judge, [TRANSLATION] “behaved impeccably at the hearing, and I thank him.”

III. Issue

[12] It must be noted, to begin with, that this judgment deals only with the respondents’ vexatiousness. The Court is not called upon to rule on the validity of the decisions rendered by the other jurisdictions, but must decide whether the respondents are exercising their right to litigate in a reasonable manner. It will therefore be the respondents’ behaviour in the face of unfavourable decisions and the authority of the courts that is at issue.

[13] In addition to a record of 675 pages, a few days prior to the start of the hearing, Mr. Yodjeu submitted a document entitled [TRANSLATION] “Opening Remarks”. In this 19-page pleading, Mr. Yodjeu reiterates that he is the victim of several Government of Canada employees. He revisits what he calls the [TRANSLATION] “criminal modus operandi” of the public servants, prosecutors and bailiffs who were involved in the proceedings before this Court.

[14] All the arguments presented by the respondents to challenge the application stem from issues that are not before the Court. The respondents made several allegations against various CIC officers and the prosecutors and employees of the AGC, accusing them of criminal or civil wrongdoing aimed at persecuting the Yodjeu family in Canada. These were reviewed thoroughly by Justice Yvan Roy in *Yodjeu Ntemde v Canada*, 2018 FC 410. In his judgment, Justice Roy conducted an extensive review of the myriad complaints and proceedings Mr. Yodjeu instigated following the refusal of his application to sponsor his spouse, Ms. Mbakop, and their daughter in

August 2012, as well as the refusal of their APRs in May 2013. The respondents' action in damages was dismissed by summary judgment. No appeal was filed against that decision.

IV. Issue

[15] The main issue in this application is the right of the respondents to institute further proceedings before this Court with or without prior leave.

[16] The case law of this Court generally relies on seven criteria to establish whether a person has exercised their right to litigate in an excessive or unreasonable manner. These specific traits or “hallmarks” were defined by Justice Luc Martineau in *Olumide v Canada*, 2016 FC 1106, at paragraph 10:

- (a) The litigant has been admonished by various courts for engaging in vexatious and abusive behaviour;
- (b) The litigant institutes frivolous proceedings (including motions, applications, actions and appeals).
- (c) The litigant makes scandalous and unsupported allegations against opposing parties of the Court;
- (d) The litigant relitigates issues which have been already decided against him [vexatious litigant].
- (e) The litigant unsuccessfully appeals interlocutory and final decisions as a matter of course;
- (f) The litigant ignores court orders and court rules;
- (g) The litigant refuses to pay outstanding costs awards against him.

[17] That said, to find there is vexatious, excessive and unreasonable behaviour based on these characteristics, they need not all be present. Each case is considered on its own merits. It is the overall analysis that matters.

V. Analysis and decision

[18] On June 12, 2019, Justice Yves de Montigny of the Federal Court of Appeal issued a declaration of vexatiousness against the respondents: *Canada (Attorney General) v Yodjeu*, 2019 FCA 178. The analysis conducted by Justice de Montigny reveals the abuses of process in which Mr. Yodjeu has engaged since 2014, and in which his wife joined in 2017. It is unnecessary to repeat them, and I will refer to the description in his judgment on this subject.

[19] It is the applicant's responsibility in this case to prove the vexatiousness on a balance of probabilities. However, as explained by Justice David Stratas in *Canada v Olumide*, [2018] 2 FCR 328, 2017 FCA 42 at paragraph 38, "as a practical matter, due to the weight that can attach to other courts' findings, a respondent might have to offer highly credible evidence in order to resist the application."

[20] The only conclusion is that the respondents meet nearly all the hallmarks of vexatiousness recognized in the case law.

[21] The respondents filed multiple vexatious proceedings by submitting interlocutory motions and notices of appeal and incidentally demonizing the judges or prothonotaries who did not agree with them. Despite the judgments rendered by this Court and the Federal Court of

Appeal that have all found them to be in the wrong, nothing has stopped. On the contrary, over time, things have escalated exponentially. They restate the same issues in successive proceedings, always looking for the same result, despite repeated failures. They interpret the failure of their proceedings before the courts as confirmation that justice has still not been served. Moreover, they present arguments that border on the irrational.

[22] Moreover, the respondents have falsely interpreted the facts.

[23] To cite only a few examples in his opening remarks and during his arguments, Mr. Yodjeu submitted that Denis Bilodeau, Deputy Commissioner, Office of the Public Sector Integrity Commissioner of Canada, [TRANSLATION] “identified that the Government of Canada and several of its employees committed three categories of serious wrongdoing against them.” However, when I questioned him on the subject, Mr. Yodjeu admitted that no decision had been rendered by Mr. Bilodeau with regard to the alleged wrongdoing. Mr. Bilodeau had clearly indicated in his September 21, 2018 letter that he had decided not to conduct an investigation into the allegations that Mr. Yodjeu had raised in his disclosure.

[24] Mr. Yodjeu states in his opening remarks that I had scheduled the hearing for August 22, 2019, without first asking about his availability, despite the fact he was aware of the written directions Justice Denis Gascon issued on May 8, 2019, which concluded as follows:

[TRANSLATION]

Moreover, to set the date of the hearing on the merits of the application in the present file, the respondents will need to submit, in the five days following this direction, the dates they are available/unavailable for this hearing, to the end of 2019.

[25] When faced with this information, Mr. Yodjeu admitted that he had not complied with the Court's directions, and he had raised no objection with regard to the hearing date before August 18, 2019.

[26] Of greater concern, Mr. Yodjeu stated in an affidavit sworn in on August 26, 2019, in support of a brand new motion, that the idea of filing a judicial review of Mr. Bilodeau's September 21, 2018 decision was suggested by me at the hearing. I cannot ignore what is very clearly a distortion of reality. This allegation is simply false.

[27] As of today, the respondents have instituted three proceedings before this Court and 12 appeals before the Federal Court of Appeal. These cases resulted in around 100 motions, multiple requests for direction from the Registry, and all sorts of letters. Because of these cases, several directions, orders or judgments were issued on the debates raised. In fact, the escalation of legal proceedings is constant, continuous and, unfortunately, never-ending.

[28] By attempting to initiate new proceedings before this Court while the present case was under reserve, Mr. Yodjeu himself demonstrated a symptom of vexatiousness. We can sense that this case is bothering him a great deal. He himself said:

[TRANSLATION]

The fact is I am not hiding anymore and am asserting myself; I am part of the class of souls incarnated on this earth to bring Light and I will carry out my mission on this earth and nobody will stop me.

[29] Clearly, Mr. Yodjeu will not stop until his reputation is restored. To summarize, Mr. Yodjeu continues to constantly question the past.

[30] Enough is enough. I feel that the time has come to intervene and stop these excesses. Like Justice Montigny, I feel that there is a need to declare the respondents to be vexatious litigants and from now on to restrict their right to instigate legal proceedings.

JUDGMENT in T-1323-18

FOR THESE REASONS, THE COURT:

1. **DECLARES** the respondents to be vexatious litigants subject to the prior leave within the meaning of section 40 of the *Federal Courts Act*;
2. **PROHIBITS** the respondents from filing any new legal claims, motions, complaints or any other type of proceeding before this Court, directly or indirectly, in any manner whatsoever, individually or jointly with any other natural or legal person, without first obtaining leave from the Chief Justice or a judge designated by him;
3. **PROHIBITS** the respondents from contacting the Registry by telephone or email or to submit any document electronically, by fax or at the counter;
4. **REFUSES** to accept the filing of all the motions and correspondence submitted by the respondents during the month of August 2019;
5. **ORDERS** that all applications for leave, where applicable, be made exclusively by written request sent by regular mail;
6. **ORDERS** the provisional execution of the present judgment, notwithstanding appeal;

7. **ORDERS** the respondents to pay the applicant costs fixed at \$5,000 for legal fees and disbursements.

“Roger R. Lafrenière”

Judge

Certified true translation
This 13th day of September, 2019.
Michael Palles, Reviser

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1323-18

STYLE OF CAUSE: ATTORNEY GENERAL OF CANADA v LÉOPOLD
CAMILLE YODJEU NTEMDE and MARLYSE
MBAKOP

PLACE OF HEARING: QUÉBEC, QUEBEC

DATE OF HEARING: AUGUST 22, 2019

JUDGMENT AND REASONS: LAFRENIÈRE J.

DATED: AUGUST 29, 2019

APPEARANCES:

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FOR THE APPLICANT

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RESPONDENTS
(ON HIS OWN BEHALF)

SOLICITORS OF RECORD:

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FOR THE APPLICANT