Federal Court  Cour fédérale

Date: 20250207

Docket: T-541-24

Citation: 2025 FC 245

Ottawa, Ontario, February 7, 2025

PRESENT: The Honourable Madam Justice Blackhawk

BETWEEN:

NATHAN KIRK DEMPSEY

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of a decision dated February 19, 2024, from the Office of the Public Sector Integrity Commissioner of Canada ("OPSIC" or "Commissioner") not to investigate the Applicant's complaints made pursuant to the *Public Servants Disclosure Protection Act*, SC 2005, c 46 [*PSDPA*] ("Decision").

[2] For the reasons that follow, this application is dismissed.

II. Background

[3] The application was extremely difficult to follow as the Applicant linked together several earlier complaints and proceedings related to allegations of wrongdoing, improper conduct, mismanagement of public assets, and breaches of codes of conduct. The background information set out below is a synthesis of the most pertinent background relied on by the Applicant in support of his application.

[4] On December 27, 2023, the Applicant submitted a complaint to OPSIC using the online disclosure form ("Disclosure"), later identified as Complaint No. PSIC-2023-D-0622.

[5] In response to a request to provide a description of the complaint and alleged wrongdoing at issue, the Applicant requested that OPSIC review the entirety of his public web domain (www.refugeecanada.net) and indicated that he would respond to further direction to submit original materials. Materials referenced by the Applicant included a 300-page affidavit, which exceeded the 10MB limit for disclosure. An OPSIC Case Admissibility Analyst ("Analyst") and other staff communicated with the Applicant via email concerning his Disclosure.

[6] The Applicant provided OPSIC with a chronology of events that outlined a number of incidents and issues he considered relevant to what he referred to as an ongoing scandal that involved federal entities, including the Canada Revenue Agency ("CRA"), the Royal Canadian Mounted Police ("RCMP"), and the Canadian Armed Forces ("CAF"); as well as non-federal entities including an unidentified Canadian Commercial and Government Entity ("CAGE"), the British Columbia Court of Appeal ("BCCA") and its Registrar, the British Columbia Supreme Court, the Nova Scotia Court of Appeal, Nova Scotia Supreme Court, the City of Halifax and its counsel, the Halifax Regional Police, the Nova Scotia Office of the Police Complaints

Commissioner, the Canadian Judicial Council, the Supreme Court of Canada ("SCC"), and "unidentified social media influences." The Applicant asserted that the listed entities engaged in the following conduct in contravention of the *PSDPA*: the misuse of public funds or a public asset; gross mismanagement in the public sector; an act or omission that creates a substantial and specific danger to the life, health, or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of a public servant; a serious breach of code of conduct; and, knowingly directing or counselling a person to commit a wrongdoing set out in any of paragraphs 8(a–e) ("Scandal").

[7] In the Scandal, the Applicant alleged that he was drawn into a shareholder oppression lawsuit against the chief executive officer of the CAGE, concerning a merger-acquisition transaction in September 2020. The Applicant alleged that the CAGE is a private sector company that supplies government agencies. As a result of the lawsuit and/or his interactions with the CAGE, the Applicant alleged he experienced widespread disruptions to his life, which included stalking; encounters with CAF personnel; bribes within the Canadian judicial system and misconduct of court staff; and, purported "obstruction of justice" by police agencies and tribunals.

[8] After conducting a Case Admissibility Analysis via the Disclosure Assessment Tool, the Analyst recommended that the Commission not investigate the allegations because the requirements set out at subsection 33(1) of the *PSDPA* were not satisfied. OPSIC personnel, including the Manager of Case Analysis, Legal Services, and Director of Operations, supported the recommendation to the Commissioner.

[9] On February 19, 2024, the Commissioner issued its Decision, indicating that OPSIC would not commence an investigation into the Scandal.

[10] The Court notes that this application is linked to a long-standing dispute between the Applicant and his former employer, Pagefreezer Software Inc. (“Pagefreezer”). The dispute has a complicated and lengthy history in multiple courts. Briefly, in September 2021, the Applicant and Pagefreezer entered into a settlement agreement to resolve a dispute between them. In February 2022, the Applicant petitioned to have the agreement rescinded. This petition was dismissed in October 2022. The Applicant has made numerous applications and motions in the British Columbia and the Nova Scotia Courts related to this. The Applicant has been found to be in civil contempt of court on two separate occasions by the BCCA (*Dempsey v Pagefreezer Software Inc*, 2023 BCCA 58 at para 4; *Dempsey v Pagefreezer Software Inc*, 2023 BCCA 202 at paras 9, 38–42) and has been declared a vexatious litigant in the Supreme and Provincial Courts of British Columbia (*Dempsey v Pagefreezer Software Inc*, 2023 BCCA 212 at paras 24–25). A review of the Court records indicates that the Applicant has not purged his contempt orders (2023 BCCA 212 at paras 62-68; see also 2023 BCCA 179; 2023 NSCA 60; 2023 NSSC 240; 2024 NSCA 53; 2024 NSCA 76).

[11] Following the proceedings in the British Columbia and Nova Scotia Courts, the Applicant wrote to the SCC Registry in February 2023, requesting that the SCC refuse entry of the BCCA orders that declared him a vexatious litigant. He wrote the Registry a second time in March 2023, and attached a copy of his compliant to the British Columbia Human Rights Tribunal, which alleged that he was denied a fair trial. On June 30, 2023, the Applicant filed an application for leave to the SCC to challenge the BCCA orders and alleged conduct of the British Columbia Courts. On December 6, 2023, the Registry advised that it could not and would not

accept the Applicant's documents for filing, pursuant to Rule 32(2) of the *Rules of the Supreme Court of Canada*, SOR/2002-156. The Registry did not accept additional supporting information from the Applicant on December 11, 2023. The SCC dismissed the Applicant's motion for leave to appeal on December 21, 2023. Similarly, the Applicant's motion for reconsideration was dismissed.

[12] In addition, the Applicant has initiated several complaints to police departments in British Columbia and Nova Scotia, the Canadian Judicial Council, and other administrative bodies that flow from his longstanding dispute with Pagefreezer and/or the CAGE. It does not appear that any of these complaints have advanced past the initial screening-phase.

A. *Decision under review*

[13] On February 19, 2024, the Commissioner issued the Decision, advising that OPSIC would not commence an investigation into the Scandal on the basis that a portion of the subject matter of the Applicant's Disclosure was outside of OPSIC's jurisdiction, and that the remainder of the Disclosure did not concern "wrongdoing" as defined by section 8 of the *PSDPA*. The key portions of the Decision are reproduced below:

> … Regarding your allegations, I would like to bring your attention to section 8 of the Act which provides that the Act applies in respect of wrongdoings "in or relating to the public sector." Subsection 2(1) of the Act defines the "public sector" over which my Office has jurisdiction, and explicitly excludes the CAF. Moreover, with the exception of the CRA and the RCMP, your allegations concern a CAGE, police agencies, tribunals, City of Halifax and its counsel, NS Office of the [*sic*] police Complaints Commissioner, the Canadian Judicial Council and unidentified social media influencers that are not named in Schedules I and 1.1 to V of FAA or Schedule 1 of the Act. As such, given that the allegations relate to organizations that are not "public sector", it does not concern wrongdoing "in or relating to the public sector" within the meaning of section 8 of the Act. My Office therefore

does not have the jurisdiction to deal with these allegations or to commence an investigation under the Act.

Concerning your allegations against the CRA and the RCMP, which fall under my jurisdiction, you allege that they committed wrongdoing pursuant to the Act when they acted in a manner opposite to their mandates, when they obstructed justice and denied safe avenue, as well as contravened unspecified act. You provided two examples as follows:

- CRA disproportionately resisted an order, despite proof of tax fraud in the CAGE CEO's settlement affidavit; and

- The RCMP did not open any file into your alleged life disruption and life-threatening events.

While I understand that your situation may have been stressful, the allegations against CRA and the RCMP seem to arise from your personal situation pertaining to what appears to be a private civil litigation between you and a CAGE's unidentified director regarding shareholdings. As such, it is important to note that the Federal Court of Canada, in *Canada (Attorney General) v. Canada (Public Sector Integrity Commissioner)*, 2016 FC 886, held that the purpose of the Act is to address wrongdoing *"of an order of magnitude that could shake public confidence if not reported and corrected"* and that poses a *"serious threat to the integrity of the public service"*. The requirement in the Act that all founded cases of wrongdoing be reported to Parliament further underscores the seriousness and the public interest component of the wrongdoing that is intended to be addressed by the Act. Generally, the Act is not intended to address matters of a personal nature that do not otherwise seriously impact the public's confidence in the integrity of the federal public sector. These matters should continue to be addressed through procedures available to deal with such concerns. Therefore, your allegations against CRA and the RCMP do not concern wrongdoing pursuant to section 8 of the Act.

In light of the foregoing, since a portion of the subject matter of your disclosure falls outside of the scope of my Office's jurisdiction, and the other portion does not concern wrongdoing pursuant to the Act, the requirements under subsection 33(1) of the Act have not been met. Consequently, an investigation into your allegation will not be commenced and your file will be closed.

[Emphasis in original.]

III. Preliminary Issues

[14] The Respondent raised two preliminary issues that I will address at the outset of these reasons: the proper naming of the Respondent party; and the admissibility of the Applicant's three affidavits in support of this application.

A. *Proper respondent*

[15] The Respondent raised that the responding party should be the Attorney General of Canada rather than OPSIC, pursuant to subsection 303(2) of the *Federal Courts Rules*, SOR/98-106 [*Rules*]. The Applicant did not make submissions on this issue.

[16] I agree that the style of cause ought to be amended in this case. Accordingly, the amendment will be made forthwith and with immediate effect.

B. *Admissibility of Applicant's affidavit evidence*

[17] The Applicant provided three affidavits in support of his application:

- Affidavit 1, sown on March 27, 2024 – 3 pages;
- Affidavit 2, sworn on April 3, 2024 – 402 pages; and
- Affidavit 3, sworn on April 3, 2024 – 136 pages.

[18] By way of summary, Affidavit 1 contains repeated references to the Applicant's personal webpage and an exhibit created by the Applicant; Affidavit 2 purports to contain a copy of the Applicant's 400-page motion for reconsideration in the SCC, and contains a number of statements of opinion and legal argument; Affidavit 3 contains the Decision, references to jurisprudence, legal arguments and opinions, transcripts and references to police investigations, court proceedings in other jurisdictions, and allegations concerning the CRA.

[19] The Respondent argued that significant portions of the Applicant's affidavits ought to be disregarded or struck. The Respondent argued that before OPSIC and in this application, the Applicant references an "immense collection of documents and information" that purport to chronicle the Scandal.

[20] The evidentiary record on a judicial review is limited to the record that was before the original decision-maker (*Mackie v Teamsters Canada Rail Conference*, 2022 FCA 186 [*Mackie*] at paras 2–5, 9–10). A court may admit new evidence on judicial review in three circumstances:

> First, where the new evidence provides general background information that assists the Court in its understanding of the issues relevant to the judicial review, without adding evidence that goes to the merits of the matter before the Court. Second, where the new evidence brings the Court's attention to procedural defects not found in the record before the decision maker. Third, where the new evidence highlights a complete absence of evidence before the decision maker on a finding.
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> [*Bains v Canada (Citizenship and Immigration)*, 2020 FC 57 at paras 23–24, citing *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at para 20; see also *Mackie* at paras 2–5, 9–10.]

[21] I agree with the Respondent that none of the enumerated exceptions for the admissibility of new evidence is applicable to this application. Accordingly, I am only considering the materials that were before the Commissioner, as set out in the certified tribunal record for this application. To be clear, this includes the Applicant's Disclosure to OPSIC, emails between the Applicant and OPSIC, and the chronology concerning the Scandal.

[22] That said, I agree with the Respondent that it is not entirely clear from the record what information OPSIC reviewed from the Applicant's personal website. The OPSIC Disclosure Assessment Tool indicates that:

> During a telephone conversation on December 29, 2023, the Case Admissibility Analyst (the Analyst) explained to the discloser that he had to submit clearer and more precise allegations concerning wrongdoing as the Commissioner's Office will not review the entirety of the website in order to try to define the alleged wrongdoings for the discloser. As such, on January 2, 2024, the discloser provided the Analyst with a 6 pages' email to describe what he refers to as a three-years "scandal". On January 9, 2023, the discloser provided few "key links" to his website regarding COVID vaccines and the "unlawful and non-consenting use by the government of "Fourth Industrial Revolution (4IR) technologies," notably. Of note, the Analyst did not review the entirety of the discloser's website.
>
> [Emphasis added.]

[23] I will address the reasonableness and procedural fairness issues raised by the Applicant concerning the Commissioner's failure to review the entirety of his website later in these reasons.

IV. Issues

[24] The Respondent has identified the following issues for this application, with which I agree:

A. What is the standard of review applicable to the Commissioner's Decision?

B. Was the Commissioner's Decision reasonable?

C. Was the Commissioner's Decision procedurally fair?

V. Analysis

A. *Standard of review*

[25] In *Gordillo v Canada (Attorney General)*, 2022 FCA 23 [*Gordillo*], the Federal Court of Appeal confirmed that consistent with the presumption established in *Canada (Minister of*

Citizenship and Immigration) v Vavilov, 2019 SCC 65 [*Vavilov*], "reasonableness is the applicable standard when a court reviews the merits of an administrative decision," including decisions of the Commissioner not to investigate alleged wrongdoing (*Gordillo* at para 60).

[26] Reasonableness review is a deferential standard and requires an evaluation of the administrative decision to determine if the decision is transparent, intelligible, and justified (*Vavilov* at paras 12–15, 95). The starting point for a reasonableness review is the reasons for decision. Pursuant to the *Vavilov* framework, a reasonable decision is "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85).

[27] It is important to understand that a court undertaking a reasonableness review is not to determine how it would have decided the issue; rather, the inquiry is limited to determining if the decision maker's decision falls within a reasonable range of outcomes. In reaching a decision, administrative decision makers are entitled to draw upon their knowledge, experience, and expertise (*Gordillo* at para 61, citing *Vavilov* at paras 78, 83, 85, 91-93 and *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 at paras 35, 38).

[28] To intervene on an application for judicial review, the court must find an error in the decision that is central or significant to render the decision unreasonable (*Vavilov* at para 100). The Applicant bears the burden of demonstrating that alleged flaws in the decision are sufficiently central or significant to render the decision unreasonable (*Vavilov* at paras 100, 125). Generally, save for exceptional circumstances, reviewing courts will not interfere with a decision maker's findings of fact, nor re-weigh or re-assess a decision maker's evidentiary findings (*Vavilov* at para 125).

[29] That said, the standard of review applicable to allegations of a breach of procedural fairness has been described as a standard of correctness (*Gordillo* at para 63). The principles applicable to the review of procedural fairness issues were set out in *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 [*CPR*] at paragraphs 46–47. The "reviewing exercise is 'best reflected in the correctness standard' even though, strictly speaking, no standard of review is being applied" (*CPR* at para 54, citing *Eagle's Nest Youth Ranch Inc v Corman Park (Rural Municipality #344)*, 2016 SKCA 20 at para 20; see also *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 43).

[30] The central consideration to determine if an administrative tribunal decision is fair is if the applicant knew the case to be met and had a full and fair chance to respond (*CPR* at para 56; see also *Larocque v Canada (Attorney General)*, 2022 FC 613 at paras 25–26). A reviewing court is concerned with the whole process, having regard to all the circumstances (*CPR* at paras 54–55).

[31] Accordingly, the standard of reasonableness applies to the Commissioner's Decision and the standard of correctness will apply to the allegations of a breach of procedural fairness.

B. *Was the Commissioner's Decision reasonable?*

(1) Legislative Framework

[32] The Commissioner was appointed by the Governor-in-Council following consultation with the leaders of all recognized political parties in the Senate and the House of Commons. The approval of the Commissioner's appointment is confirmed by a resolution of the Senate and the House of Commons (*PSDPA*, subsection 39(1)). The Commissioner is authorized to investigate

alleged wrongdoing in the federal public sector and has the discretion to determine if an investigation should proceed.

[33] The relevant sections of the *PSDPA* are set out below:

Wrongdoings	**Actes répréhensibles**
8 This Act applies in respect of the following wrongdoings in or relating to the public sector:	**8** La présente loi s'applique aux actes répréhensibles ci-après commis au sein du secteur public ou le concernant :
(a) a contravention of any Act of Parliament or of the legislature of a province, or of any regulations made under any such Act, other than a contravention of section 19 of this Act;	**a)** la contravention d'une loi fédérale ou provinciale ou d'un règlement pris sous leur régime, à l'exception de la contravention de l'article 19 de la présente loi;
(b) a misuse of public funds or a public asset;	**b)** l'usage abusif des fonds ou des biens publics;
(c) a gross mismanagement in the public sector;	**c)** les cas graves de mauvaise gestion dans le secteur public;
(d) an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of a public servant;	**d)** le fait de causer — par action ou omission — un risque grave et précis pour la vie, la santé ou la sécurité humaines ou pour l'environnement, à l'exception du risque inhérent à l'exercice des attributions d'un fonctionnaire;
(e) a serious breach of a code of conduct established under section 5 or 6; and	**e)** la contravention grave d'un code de conduite établi en vertu des articles 5 ou 6;
(f) knowingly directing or counselling a person to commit a wrongdoing set	**f)** le fait de sciemment ordonner ou conseiller à une personne de commettre l'un

out in any of paragraphs (a) to (e).

des actes répréhensibles visés aux alinéas a) à e).

…

[…]

Restriction — general

Interdiction d'intervenir

23 (1) The Commissioner may not deal with a disclosure under this Act or commence an investigation under section 33 if a person or body acting under another Act of Parliament is dealing with the subject-matter of the disclosure or the investigation other than as a law enforcement authority.

23 (1) Le commissaire ne peut donner suite à une divulgation faite en vertu de la présente loi ou enquêter au titre de l'article 33 si une personne ou un organisme — exception faite d'un organisme chargé de l'application de la loi — est saisi de l'objet de celle-ci au titre d'une autre loi fédérale.

…

[…]

Right to refuse

Refus d'intervenir

24 (1) The Commissioner may refuse to deal with a disclosure or to commence an investigation — and he or she may cease an investigation — if he or she is of the opinion that

24 (1) Le commissaire peut refuser de donner suite à une divulgation ou de commencer une enquête ou de la poursuivre, s'il estime, selon le cas :

(a) the subject-matter of the disclosure or the investigation has been adequately dealt with, or could more appropriately be dealt with, according to a procedure provided for under another Act of Parliament;

a) que l'objet de la divulgation ou de l'enquête a été instruit comme il se doit dans le cadre de la procédure prévue par toute autre loi fédérale ou pourrait l'être avantageusement selon celle-ci;

(b) the subject-matter of the disclosure or the investigation is not sufficiently important;

b) que l'objet de la divulgation ou de l'enquête n'est pas suffisamment important;

(c) the disclosure was not made in good faith or the

c) que la divulgation ou la communication des

information that led to the investigation under section 33 was not provided in good faith;

renseignements visée à l'article 33 n'est pas faite de bonne foi;

(d) the length of time that has elapsed since the date when the subject-matter of the disclosure or the investigation arose is such that dealing with it would serve no useful purpose;

d) que cela serait inutile en raison de la période écoulée depuis le moment où les actes visés par la divulgation ou l'enquête ont été commis;

(e) the subject-matter of the disclosure or the investigation relates to a matter that results from a balanced and informed decision-making process on a public policy issue; or

e) que les faits visés par la divulgation ou l'enquête résultent de la mise en application d'un processus décisionnel équilibré et informé;

(f) there is a valid reason for not dealing with the subject-matter of the disclosure or the investigation.

f) que cela est opportun pour tout autre motif justifié.

Adjudicative decisions

Décision judiciaire ou quasi judiciaire

(2) The Commissioner must refuse to deal with a disclosure or to commence an investigation if he or she is of the opinion that the subject matter of the disclosure or the investigation relates solely to a decision that was made in the exercise of an adjudicative function under an Act of Parliament, including a decision of the Commissioner of the Royal Canadian Mounted Police under Part IV of the *Royal Canadian Mounted Police Act*.

(2) Dans le cas où il estime que l'objet d'une divulgation ou d'une éventuelle enquête porte sur une décision rendue au titre d'une loi fédérale dans l'exercice d'une fonction judiciaire ou quasi judiciaire, notamment une décision rendue par le commissaire de la Gendarmerie royale du Canada sous le régime de la partie IV de la *Loi sur la Gendarmerie royale du Canada*, le commissaire est tenu de refuser de donner suite à la divulgation ou de commencer l'enquête.

…

Notice of refusal

(3) If the Commissioner refuses to deal with a disclosure or to commence an investigation, he or she must inform the person who made the disclosure, or who provided the information referred to in section 33, as the case may be, and give reasons why he or she did so.

…

Power to investigate other wrongdoings

33 (1) If, during the course of an investigation or as a result of any information provided to the Commissioner by a person who is not a public servant, the Commissioner has reason to believe that another wrongdoing, or a wrongdoing, as the case may be, has been committed, he or she may, subject to sections 23 and 24, commence an investigation into the wrongdoing if he or she believes on reasonable grounds that the public interest requires an investigation. The provisions of this Act applicable to investigations commenced as the result of a disclosure apply to investigations commenced under this section.

[…]

Avis

(3) En cas de refus de donner suite à une divulgation ou de commencer une enquête, le commissaire en donne un avis motivé au divulgateur ou à la personne qui lui a communiqué les renseignements visés à l'article 33.

[…]

Enquête sur un autre acte répréhensible

33 (1) Si, dans le cadre d'une enquête ou après avoir pris connaissance de renseignements lui ayant été communiqués par une personne autre qu'un fonctionnaire, le commissaire a des motifs de croire qu'un acte répréhensible — ou, dans le cas d'une enquête déjà en cours, un autre acte répréhensible — a été commis, il peut, s'il est d'avis sur le fondement de motifs raisonnables, que l'intérêt public le commande, faire enquête sur celui-ci, sous réserve des articles 23 et 24; les dispositions de la présente loi applicables aux enquêtes qui font suite à une divulgation s'appliquent aux enquêtes menées en vertu du présent article.

[34] The Commission has the authority to investigate allegations of wrongdoing disclosed by a public servant or by a non-public servant. The Applicant is not a public servant.

[35] Subsection 33(1) of the *PSDPA* sets out prerequisite considerations for the Commissioner to determine if an investigation following disclosure by a non-public servant should proceed. The Commissioner must, based on the disclosure: (i) have reason to believe that the alleged wrongdoing has been committed; (ii) believe on reasonable grounds that the public interest requires an investigation; and (iii) be satisfied that an investigation is not restricted by section 23 or other grounds as set out at section 24.

(2) Scope of the Commissioner's jurisdiction

[36] The Applicant asserts that the Decision is not reasonable. The Applicant's notice of application for judicial review appears to chronical the Scandal. The Applicant asserts that the Commissioner mischaracterised the Scandal set out in his Disclosure.

[37] The Respondent asserts that the Commissioner's Decision is reasonable because it is consistent with the applicable legislative framework that defines the scope of the Commissioner's jurisdiction.

[38] The Commissioner found that the Applicant's Disclosure concerns alleged wrongdoings related to multiple entities, many of which do not fall within the scope of the Commissioner's jurisdiction over the "public sector" (*PSDPA*, subsection 2(1)):

> Regarding your allegations, I would like to bring your attention to section 8 of the Act which provides that the Act applies in respect of wrongdoings "in or relating to the public sector." Subsection 2(1) of the Act defines the "public sector" over which my Office has jurisdiction, and explicitly excludes the CAF. Moreover, with the exception of the CRA and the RCMP, your allegations concern

> a CAGE, police agencies, tribunals, City of Halifax and its counsel, NS Office of the [*sic*] police Complaints Commissioner, the Canadian Judicial Council and unidentified social media influencers that are not named in Schedules I and 1.1 to V of FAA or Schedule 1 of the Act. As such, given that the allegations relate to organizations that are not "public sector", it does not concern wrongdoing "in or relating to the public sector" within the meaning of section 8 of the Act. My Office therefore does not have the jurisdiction to deal with these allegations or to commence an investigation under the Act.

[39] The Commissioner's Decision that many of the entities involved in the Scandal did not fall within their jurisdiction is reasonable. The Commissioner clearly set out the statutory framework that defines the scope of its jurisdiction. The Commissioner did not have the discretion to exceed this jurisdiction to consider portions of the Disclosure related to non-federal "public sector" entities. The reasons are clear, justified, and transparent; in other words, this aspect of the Decision is reasonable.

[40] The Commissioner went on to note that some entities engaged in the Scandal concerned "public sector" entities within her jurisdiction, specifically the RCMP and CRA. In respect of the Disclosure related to these entities, the Decision states:

> While I understand that your situation may have been stressful, the allegations against CRA and the RCMP seem to arise from your personal situation pertaining to what appears to be a private civil litigation between you and a CAGE's unidentified director regarding shareholdings.… Generally, the Act is not intended to address matters of a personal nature that do not otherwise seriously impact the public's confidence in the integrity of the federal public sector.… Therefore, your allegations against CRA and the RCMP do not concern wrongdoing pursuant to section 8 of the Act.

[41] The Commissioner clearly set out the relevant legislative framework and noted jurisprudence that provides guidance to the Commissioner in the exercise of its discretion.

[42] I am of the view that the Commission's Decision is reasonable. The Commissioner is tasked with commencing an investigation into matters that, based on the disclosure, it has reasonable grounds to believe are in the public interest (*PSDPA*, section 33).

[43] The Commissioner noted that the *PSDPA*'s purpose is to address wrongdoing "of an order of magnitude that could shake public confidence if not reported and corrected" and that poses a "serious threat to the integrity of the public service" (*Canada (Attorney General) v Canada (Public Sector Integrity Commissioner)*, 2016 FC 886 at para 106).

[44] The Commissioner reasonably found that the nature of the Scandal's allegations originates from a private, personal matter. The Applicant pointed to a massive volume of materials and argued that the Decision regarding the nature of the Scandal is unreasonable. I do not agree.

[45] The Applicant's desire for the Commissioner to have reached a different conclusion regarding the nature of the Disclosure does not render the Decision unreasonable. The reasons for Decision are transparent, justified, and intelligible.

(3) Failure to review all materials

[46] The Applicant asserted that the Commissioner's admission that it did not review all the materials in the Disclosure, most notably the links to his personal website, renders the Decision unreasonable.

[47] The Respondent argued that the Commissioner's failure to review the voluminous materials and links to all materials contained on the Applicant's personal website does not render

the Decision unreasonable, because the Commissioner had the necessary pertinent information to assess if the Disclosure warranted a public interest investigation.

[48] I agree with the Respondent.

[49] The record for this application contains hundreds of pages of information of limited or tangential relevance to the matter before me—that is, the reasonableness of the Commissioner's Decision. The materials are poorly organized, confusing, and voluminous, and contain links to the Applicant's personal website, which increases the volume of material exponentially. The Applicant did not clearly indicate how all the material contained in his website is relevant to the Scandal in the narrative that accompanies the Disclosure. Indeed, his own narrative does not reference all the materials from his website that he claims the Commissioner ought to have reviewed.

[50] The Commissioner's Decision that the Applicant had not satisfied the requirements to provide disclosure of a "wrongdoing" involving the federal "public sector" to trigger an investigation pursuant to subsection 33(1) of the *PSDPA* is reasonable. The Decision indicates that the Commissioner reviewed the Disclosure and reasonably considered the evidence.

[51] In my opinion, the Applicant's expectation that the Commissioner should have to sort through the maze of documents and collages of imagery that can only be described as a "stream of consciousness" or an "information dump," to determine what, if anything, is relevant and material to the Scandal set out in the Disclosure is not reasonable.

[52] OPSIC does not have unlimited resources at its disposal to review and construct a coherent narrative of the Disclosure. The Applicant has a duty to set out a clear coherent

disclosure to ground the Commissioner's investigation. This Court has confirmed that applicants have the evidentiary burden to put their best foot forward in their application:

> [23] The Commission was not required to make further inquiries into the nature of the Applicant's beliefs. The Applicant had an opportunity to describe his beliefs in the complaint form as well as a preliminary issues information sheet, which the Commission reviewed before it rendered its decision. The Applicant was required to put his best foot forward in those submissions: *White v Canada Post Corporation*, 2024 FC 198 at para 15.
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> [*Cholewa v Canada (Attorney General)*, 2024 FC 1509 at para 23.]

[53] In other words, the Applicant had the evidentiary burden to set out a clear and cogent narrative in his Disclosure; it was not the responsibility of the Commissioner to discern and assess the alleged wrongdoing from a massive volume of poorly organised and confusing materials on the Applicant's personal website.

[54] I appreciate that the Applicant is self-represented. However, that does not excuse him from the applicable evidentiary burden. This Court has noted that self-represented parties also have an obligation to become self-educated (*Rooke v Canada (Attorney General)*, 2018 FC 204 at para 23, citing *MacDonald v Canada (Attorney General)*, 2017 FC 2 at paras 29–33; see also *Clarke v Canada (Attorney General)*, 2024 FC 1702 at para 12).

[55] While this Court should be flexible to ensure access to justice, this does not absolve self-represented parties from setting out a clear, cogent claim. All parties must be able to understand the claim that is set out and have an opportunity to be able to fairly respond to such claims. It is simply not fair for responding parties, administrative bodies, and eventually courts, to have to guess what the nature of the claim being made is. Nor is it a good use of scarce resources to expect parties, administrative bodies, and courts to meaningfully address vague, baseless

allegations that are not supported by a clear narrative and evidence (*Fitzpatrick v Codiac Regional RCMP Force, District 12*, 2019 FC 1040 at paras 19–20).

[56] The long history linked to this application demonstrates that the Applicant has attempted to avail himself of several *fora* to seek redress in respect of the Scandal. The Applicant's attempts in other *fora* have not been successful. His attempts at "venue shopping" to obtain the result he desires does not render earlier decisions by other courts, administrative bodies, and in this case the Commissioner, unreasonable or otherwise in error to justify this Court's intervention.

[57] The reasons of the Commissioner are clear, justified, transparent, and intelligible. In my opinion, the Decision bears all the necessary hallmarks of a reasonable decision (*Vavilov* at para 99).

C. *Was the Commissioner's Decision procedurally fair?*

[58] The Applicant did not clearly identify elements of the Decision or decision-making process that were procedurally unfair. The application sets out numerous accusations, bare allegations, and conjecture that are not supported by facts or evidence.

[59] The Respondent took the position that the Decision was procedurally fair. They noted that the Applicant did not clearly identify any elements of the Decision or process that were procedurally unfair. They argued that the fact that the Commissioner did not review all materials in the Applicant's personal website does not render the Decision procedurally defective. The Respondent argued the Decision is transparent, and the Commissioner clearly communicated the materials considered.

[60] Further, the Respondent argued that there is no legitimate expectation that the Commissioner is to conduct a "forensic style" analysis of a website in its review of disclosure to determine if an investigation is warranted.

[61] As discussed above, I agree. The Applicant had the onus to set out a clear, cogent narrative of wrongdoing in the federal public service in his Disclosure; this could have triggered an investigation by the Commissioner (*PSDPA*, subsection 33(1)). The Applicant did not do this. The Applicant has not demonstrated that the failure of the Commissioner to investigate constitutes a breach of procedural fairness.

VI. Costs

[62] The Respondent has requested their costs for this application. The general and longstanding practice is that costs follow the event for a successful party (*Whalen v Fort McMurray No 468 First Nation*, 2019 FC 1119 at paras 2–4, 7–9).

[63] I am of the view that it is appropriate to order costs in this matter. In the circumstances, an award of costs should reflect the facts that serve as a backdrop to this application. The Applicant has attempted to obtain redress for the Scandal in a number of *fora*. In support of his many applications and claims, he has inundated the courts, responding parties, and administrative decision makers with an immense collection of confusing and poorly organized materials, including frequent links to a personal website. This then requires the parties, decision makers, and courts to expend numerous resources to properly consider and respond to the Applicant's claims, and the application at bar.

[64] As noted by this Court, the principle objectives of an award of costs are to: provide indemnification to the successful party; penalize a party refusing a reasonable settlement; and sanction behavior that increases the expense of litigation or is otherwise unreasonable or vexatious (*Allergan Inc v Sandoz Canada Inc*, 2021 FC 186 [*Allergan*] at paras 19–20).

[65] Having regard to *Rules* 400, 401, 407, and Tariff B, including the factors articulated in *Rule* 400(3), the costs of this judicial review are awarded pursuant to Tariff B, the mid-range of Column III (*Allergan* at para 25).

VII. Conclusion

[66] The Applicant's disagreement with the Commissioner's Decision to not investigate the Scandal and the alleged "wrongdoing" in the federal public service does not render the Decision unreasonable or procedurally unfair.

[67] The Applicant did not make any meaningful submissions as to the reasonableness of the Commissioner's decision or the alleged breach of procedural fairness that are the subject of this application for judicial review. Accordingly, the application is dismissed.

JUDGMENT in T-541-24

THIS COURT'S JUDGMENT is that:

1. The style of cause is hereby amended with immediate effect to correctly identify the Respondent as the Attorney General of Canada.

2. The application for judicial review is dismissed.

3. The Respondent is awarded their costs for this application pursuant to Tariff B, the mid-range of Column III.

"Julie Blackhawk"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-541-24
STYLE OF CAUSE:	NATHAN KIRK DEMPSEY v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	HALIFAX, NOVA SCOTIA
DATE OF HEARING:	DECEMBER 10, 2024
JUDGMENT AND REASONS:	BLACKHAWK J.
DATED:	FEBRUARY 7, 2025

APPEARANCES:

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Melissa A. Grant	FOR THE RESPONDENT

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