Federal Court Cour fédérale

Date: 20250814

Docket: T-2504-22

Citation: 2025 FC 1375

Ottawa, Ontario, August 14, 2025

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

JUANITA WOOD

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Ms. Wood, seeks an order lifting a stay of proceedings directed by a Crown Prosecutor at a pre-enquête hearing on October 31, 2022 (the "Stay") concerning five private informations against the Government of Yukon, the Yukon Workers' Compensation Health and Safety Board (the "Board"), and employees of the Government of Yukon and the Board (the "July 2022 Informations"). Ms. Wood seeks a declaration that the Respondent acted

in bad faith and committed an abuse of process. She also seeks an order in the nature of *mandamus* compelling the scheduling of a new pre-enquête hearing for the July 2022 Informations or, alternatively, a declaration that the Crown Prosecutor acted in bad faith and that the Federal Court issue process against the accused.

[2] For the reasons that follow, I find that the Federal Court is barred from adjudicating this matter. The Stay concerns a criminal proceeding in the Territorial Court of Yukon. The appropriate forum for reviewing the Stay is the Supreme Court of Yukon. The relief Ms. Woods seeks would, if granted, result in a collateral attack against decisions of these two courts. This application for judicial review is dismissed.

II. **Background**

A. *Facts*

[3] Ms. Wood was employed by the Government of Yukon as an Indeterminate Heavy Equipment Operator II from February 17, 2014, to February 5, 2015. Ms. Wood alleges that she was wrongfully terminated.

[4] On March 5, 2015, Ms. Wood filed a complaint of prohibited reprisal under section 18 of the now repealed *Occupational Health and Safety Act*, RSY 2002, c. 159 ("OSHA"). Her complaint was dismissed by an Occupational Health and Safety Officer (the "Officer"). The Board dismissed her appeal of the Officer's decision on February 1, 2016.

[5] Ms. Wood then initiated a proceeding in the Supreme Court of Yukon alleging that the Government of Yukon breached section 18 of the OSHA by terminating her employment. The proceeding was struck and deemed to be an abuse of process (*Wood v Yukon (Highways and Public Works)*, 2016 YKSC 68 at paras 50-51).

[6] Ms. Wood subsequently initiated several proceedings in the Supreme Court of Yukon and the Court of Appeal of Yukon. The courts dismissed these proceedings and found Ms. Wood to be a vexatious litigant (*Wood v Yukon (Highways and Public Works)*, 2017 YKCA 4; *Wood v Yukon (Occupational Health and Safety Branch)*, 2018 YKSC 24; *Wood v Yukon (Government of)*, 2018 YKSC 34 (*"YKSC Vexatious Litigant Order"*); *Wood v Yukon (Occupational Health and Safety Branch)*, 2018 YKCA 16; *Wood v Yukon (Public Service Commission)*, 2019 YKCA 4).

[7] In April 2022, Ms. Wood laid 11 private informations against the Board, the Government of Yukon, and several employees of the Board and the Government of Yukon. The Respondent stayed nine of the 11 informations, pursuant to subsection 579(1) of the *Criminal Code*, RSC, 1985, c. C-46 ("*Criminal Code*").

[8] At a pre-enquête hearing on May 27, 2022, the Territorial Court of Yukon declined to issue process for the remaining two informations (*Wood (Re)*, 2022 YKTC 27 [unreported] at para 41 (the "May 2022 Judgment")). The Territorial Court of Yukon also found "no basis for any concern that [the Crown's] discretion [to direct a stay] may have been improperly exercised," as "[t]he decision was preceded by an extensive devotion of investigative and legal resources leaving no stone unturned. It was in no way remotely arbitrary or for improper

purpose, and indeed…the decision is one the Court would endorse" (May 2022 Judgment at para 20).

[9] Shortly afterward, Ms. Wood laid the July 2022 Informations, prompting the Respondent to apply for an order declaring Ms. Wood to be a vexatious litigant in the Territorial Court of Yukon. The pre-enquête hearing for the July 2022 Informations and the Respondent's application for a vexatious litigant order were heard together on October 31, 2022 (the "Hearing").

[10] During the Hearing, the Crown Prosecutor requested that their application for a vexatious litigant order be heard prior to the pre-enquête. When the judge asked whether the Crown Prosecutor intended to stay the July 2022 Informations, the Crown Prosecutor confirmed the "Crown's intention on the pre-enquête to direct a stay."

[11] Noting that the effect of a vexatious litigant order would be to stay the proceedings and that a stay can be laid "at any time," the Court asked the Crown Prosecutor why they were seeking to have the vexatious litigant order heard first "if [their] plan is to stay [the July 2022 Informations] anyways." The Crown Prosecutor and the Court then had the following exchange:

> [CROWN PROSECUTOR]: Well, I wasn't certain how – in what order the court wanted to consider the applications. I can tell you, and I've said almost as much already, but with respect to the pre-enquête hearing, the Crown is directing a stay of proceedings on the Informations – the affirmed Informations that are before the court today.
>
> THE COURT: And that is your instruction now, that those proceedings are directed to be stayed at the – are to be stayed at the direction of the Crown?

> [CROWN PROSECUTOR]: Yes, that is it.
>
> THE COURT: All right [*sic*]. So that, then, essentially, brings an end to the pre-enquête hearing that was set for today.
>
> [CROWN PROSECUTOR]: Yes.

[12] The Crown Prosecutor's decision to direct the Stay is the matter that is presently under review.

B. *Procedural History*

[13] On November 30, 2022, Ms. Wood filed the notice of application for this proceeding.

[14] The Respondent filed a motion to strike Ms. Wood's application. The Respondent argued that Ms. Wood's application had no reasonable prospect of success, as the Crown Prosecutor during the Hearing was not acting as a "federal board, commission or other tribunal" under section 2 of the *Federal Courts Act*, RSC 1985, c F-7 ("*FC Act*"). The Respondent argued that the Federal Court therefore lacked jurisdiction to adjudicate this matter.

[15] An Associate Judge of this Court granted the Respondent's motion on February 17, 2023. Ms. Wood sought an appeal of the Associate Judge's order.

[16] On February 5, 2024, Justice Pamel – prior to his appointment to the Federal Court of Appeal ("FCA") – allowed Ms. Wood's appeal (the "Appeal Order"). Justice Pamel found that the Federal Court has jurisdiction over this matter because the Crown Prosecutor purported to exercise their discretion to direct the Stay under subsection 579(1) of the *Criminal Code*. On this

basis, Justice Pamel held that the Stay constitutes an exercise of power "conferred by or under an Act of Parliament," and that the Crown Prosecutor had acted as a "federal board, commission or other tribunal" within the meaning of section 2 of the *FC Act*.

III. **Preliminary Issue**

[17] The Respondent submits that certain passages listed in Annex A of their memorandum from Ms. Wood's affidavits sworn on April 5, 2024, and July 31, 2024, are inadmissible, as they are not "confined to facts within the deponent's personal knowledge" (*Federal Courts Rules*, SOR/98-106, s 81(1) (the "Rules")).

[18] Ms. Wood made no submissions in response.

[19] The Respondent is correct. The impugned passages "engage in spin" and "advocacy" and contain "opinion, argument" and "legal conclusions" rather than facts (*Delios v Canada (Attorney General)*, 2015 FCA 117 at para 45; *Canada (Attorney General) v Quadrini*, 2010 FCA 47 at para 18). The passages listed in Annex A of the Respondent's memorandum will therefore not be considered in this decision (the Rules, s 81(1)).

IV. **Analysis**

[20] The parties agree that the decision to direct the Stay constitutes an exercise of prosecutorial discretion. Prosecutorial discretion is reviewable solely for abuse of process (*Miazga v Kvello Estate*, 2009 SCC 51 at para 46; *R v Anderson*, 2014 SCC 41 at para 48

("*Anderson*")). The central issue in this application is therefore whether the Stay constitutes an abuse of process.

[21] Ms. Wood submits that it does. Citing *Anderson* and *R v Collins*, 1987 CanLII 84 (SCC), Ms. Wood submits that the materials she placed before the judge at the Hearing established "a proper evidentiary foundation" for the charges underlying the July 2022 Informations. Ms. Wood submits that, since the charges had a "reasonable chance or likelihood of conviction," the Crown Prosecutor's decision to direct the Stay demonstrates "malice" and "fraud" and was "flagrantly improper." Ms. Wood further submits that the Crown Prosecutor's application for a vexatious litigant order demonstrates an intention to continue the prosecution, despite their stated position that the Crown would be seeking a stay of the July 2022 Informations. Ms. Wood submits that the Crown Prosecutor pursued this allegedly contradictory litigation strategy in order to fabricate the circumstances in which it "could acquit the accused...through a claim of no evidence and a resulting acquittal for want of prosecution."

[22] The Respondent submits that there was no abuse of process. The Respondent further submits that the Federal Court lacks jurisdiction to judicially review the exercise of prosecutorial discretion, that the Federal Court is not the correct forum for reviewing the Stay, and that this application is a collateral attack on criminal proceedings of the Yukon Courts.

[23] I agree, in part, with the Respondent. Although I agree with Ms. Wood that the Federal Court has jurisdiction to review the Stay under section 2 of the *FC Act*, I find that this Court is nonetheless barred from adjudicating this matter, as the appropriate fora for challenging the Stay

are the Territorial Court of Yukon and the Supreme Court of Yukon. The relief sought by Ms. Wood would, if granted, constitute a collateral attack on decisions of these Courts.

[24] As stated by the Supreme Court of Canada ("SCC") at paragraphs 28 and 30 of *British Columbia (Workers' Compensation Board) v Figliola*, 2011 SCC 52 ("*Figliola*"), the doctrine of collateral attack:

> …attempts to protect the fairness and integrity of the justice system by preventing duplicative proceedings. It prevents a party from using an institutional detour to attack the validity of an order by seeking a different result from a different forum, rather than through the designated appellate or judicial review route...
>
> …
>
> In other words, the harm to the justice system lies not in challenging the correctness or fairness of a judicial or administrative decision in the proper forums, it comes from inappropriately circumventing them...

[25] I find that such a harm would occur if the Federal Court were to decide this application on the merits.

[26] In this case, the "judicial...decision" that would be "inappropriately circumvent[ed]" is the vexatious litigant order against Ms. Wood in the Supreme Court of Yukon, which the Court of Appeal of Yukon upheld in 2018 (*Figliola* at para 30; *YKSC Vexatious Litigant Order* at para 36; *Wood v Yukon (Public Service Commission)*, 2018 YKCA 15 at paras 19, 33). As the Respondent noted during the Hearing, the appeal route for matters such as the Stay lies "in the Supreme Court of Yukon...Ms. Wood has some hurdles to overcome in terms of presenting such

a review application in that court, there being already a Vexatious Litigant Order made…against her in the Supreme Court of Yukon."

[27] A decision on this matter in the Federal Court would, in my view, circumvent the vexatious litigant order's requirement for leave. It would also disrupt the "designated appellate…route" for the Stay, risking the issuance of "inconsistent rulings on the same issue" (*Figliola* at para 28; *Ferron v Goodier et al*, 2010 ONSC 540 at para 98).

[28] The Respondent rightly notes that Ms. Wood attempted this precise appeal route in the past. As discussed in *Wood (Re)* (December 28, 2022), Whitehorse, 22-08584 (YKSC) (the "Endorsement"), Ms. Wood sought to file an application before the Supreme Court of Yukon to quash the May 2022 Judgment. In the May 2022 Judgment, the Territorial Court of Yukon had determined that "there was no basis for concern that prosecutorial discretion may have been improperly exercised" in the staying of nine out of 11 private informations Ms. Wood filed in April 2022, which were very similar to the July 2022 Informations at issue in this matter (Endorsement at para 7; May 22 Judgment at para 20). Ms. Wood's request for "an order in the nature of *certiorari* quashing [the May 2022 Judgment]" was referred to the Supreme Court of Yukon due to the vexatious litigant order against her in that Court (Endorsement at para 1). In the Endorsement, the Supreme Court of Yukon declined to grant leave for Ms. Wood to pursue her application (at paras 15-16).

[29] The Endorsement demonstrates that the proper forum to challenge the Stay is the Supreme Court of Yukon, the body that holds supervisory jurisdiction over the Territorial Court of Yukon (*Supreme Court Act*, RSY 2002, c 211, s 4(1)). This is consistent with *Amato v The*

Queen, 1982 CanLII 31 (SCC) ("*Amato*"), in which the SCC described the doctrine of abuse of process as "a wide-ranging technique for the control by the criminal court of criminal procedure in the protection of the processes of that court" (at 454 [emphasis added], cited in *R v Jewitt*, 1985 CanLII 47 at para 17 (SCC)). As this Court does not have supervisory jurisdiction over provincial and territorial courts, it is not in a position to "[protect] the processes" of the Yukon Courts. Therefore, this Court could not grant the relief Ms. Wood seeks, even if her allegations of abuse of process were accepted (*Amato* at 454; see also *Polnac v Canada*, 2017 FC 818 at para 16).

[30] In my view, supervisory jurisdiction is distinct from the jurisdiction to judicially review the exercise of prosecutorial discretion. I agree with Justice Pamel that this Court has jurisdiction under section 2 and subsection 18(1) of the *FC Act* to judicially review the Stay. I find that this Court is nonetheless barred from adjudicating this matter, as it lacks the supervisory jurisdiction to grant the particular relief sought by Ms. Wood in the Yukon Courts.

[31] The Respondent submits that the Federal Court is entirely precluded from considering Ms. Wood's application, as it is not a "court of criminal jurisdiction" under section 2 of the *Criminal Code.* The Respondent cites *Canada (Deputy Commissioner, Royal Canadian Mounted Police) v Canada (Commissioner, Royal Canadian Mounted Police*, 2007 FC 564 ("*Deputy Commissioner"*) and *Klos v Canada*, 2022 FC 68 ("*Klos*"), in which the Federal Court held that it "has no general or inherent jurisdiction to deal with criminal matters" (*Deputy Commissioner* at para 38; see also *Klos* at para 17).

[32] I do not find that these authorities are of assistance to the Respondent. The issue raised in this application is an allegation of abuse of process, which is a valid basis – in fact, the sole basis – for judicial review of prosecutorial discretion. Although the facts of this proceeding clearly relate to a criminal law process, these facts do not alter the legal question that is before this Court: whether judicial review is warranted in light of Ms. Wood's allegations that the Respondent committed an abuse of process in directing the Stay.

[33] Citing *R v Nixon*, 2011 SCC 34 at para 62 ("*Nixon*"), the Respondent argues that Ms. Wood has not properly raised the issue of abuse of process, as "pleading abuse of process alone is not enough to establish justiciability. It must be proven."

[34] I do not accept the Respondent's submissions on this issue. In my view, the evidentiary threshold set out in *Nixon* is not onerous. The SCC in *Nixon* established "a threshold burden" to distinguish substantive claims from "bare allegation[s] of abuse of process" which provide "no basis for the court to look behind the exercise of prosecutorial discretion" (*Nixon* at para 62). I do not find that this text supports the Respondent's position that applicants are required, at this stage, to prove their case.

[35] This is especially so given the high evidentiary burden on applicants to demonstrate an abuse of process. The jurisprudence is clear that a finding of abuse of process requires proof of either trial unfairness or "flagrant impropriety," "improper motive[s]," or "bad faith" which "undermines the integrity of the judicial process" (*Krieger v Law Society of Alberta*, 2002 SCC 65 at para 49; *Nixon* at paras 68, 64). Requiring applicants to meet this standard at the outset would foreclose or render redundant judicial consideration of their claims.

[36] In this case, I find that the threshold burden set out in *Nixon* has been met. Ms. Wood's memorandum contains unmistakable allegations of abuse of process. In her application record, Ms. Wood provides a transcript of the Hearing where she alleges an abuse of process took place. In my view, she has raised more than "a bare allegation" of abuse of process (*Nixon* at para 62). This is sufficient both to establish the justiciability of Ms. Wood's application and to demonstrate that this proceeding concerns an administrative law matter, rather than a criminal law matter.

[37] Returning to the Respondent's submissions on *Deputy Commissioner* and *Klos*, I note that this proceeding is further distinguishable due to the Respondent's reliance on subsection 579(1) of the *Criminal Code* in directing the Stay. In contrast, *Deputy Commissioner* and *Klos* concerned non-codified powers such as the decision to initiate a criminal investigation and a request for a declaration of the right to a fair hearing (*Deputy Commissioner* at para 2; *Klos* at paras 14–17). Section 2 and subsection 18(1) of the *FC Act* are clear that the Federal Court holds exclusive original jurisdiction over "any body, person or persons having, exercising or purporting to exercise jurisdiction or powers conferred by or under an Act of Parliament." I agree with Justice Pamel that the Respondent's exercise of prosecutorial discretion in the present matter falls within the scope of this definition, as the Stay was directed pursuant to a provision in an Act of Parliament, namely, subsection 579(1) of the *Criminal Code* (Appeal Order at para 57).

[38] As a concluding remark, I note that the jurisdiction recognized in this decision is very limited in scope. This decision affirms the Federal Court's jurisdiction to review an act of prosecutorial discretion on the narrow issue of abuse of process when it is conducted pursuant to a power conferred by or under an Act of Parliament. Even if these jurisdictional conditions are

met, the Federal Court may nonetheless be barred from adjudicating a matter in the face of issues such as collateral attack. This is the case in the present proceeding.

[39] The Respondent is concerned about infringements on prosecutorial independence. I do not find that this decision intrudes on this constitutional principle. The circumstances in which the Federal Court has jurisdiction to review acts of prosecutorial discretion are limited. Where this jurisdiction is engaged, it would not expand or otherwise alter the law pertaining to the review of prosecutorial discretion. Regardless of the specific Court in which such applications may be brought, the same test for abuse of process, rooted in the principle of prosecutorial independence, would apply.

V. **Costs**

[40] Both parties sought costs in this matter. Given that Ms. Wood is a self-represented party, I do not find that a costs award is warranted in this case. Exercising the Court's full discretionary power over costs outlined in Rule 400 of the Rules, I decline to issue a costs award.

VI. **Conclusion**

[41] For these reasons, I dismiss this application for judicial review. Ms. Wood's application constitutes a collateral attack on proceedings in the Territorial Court of Yukon and the Supreme Court of Yukon. No costs are awarded.

JUDGMENT in T-2504-22

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed.

2. No costs are awarded.

"Shirzad A."
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-2504-22
STYLE OF CAUSE:	JUANITA WOOD v ATTORNEY GENERAL OF CANADA
PLACE OF HEARING:	WHITEHORSE, YUKON TERRITORY
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