

Date: 20081120

Docket: A-107-08

Citation: 2008 FCA 357

**CORAM: LÉTOURNEAU J.A.
NOËL J.A.
TRUDEL J.A.**

BETWEEN:

MOSTAFA MOUFID

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Ottawa, Ontario, on November 18, 2008.

Judgment delivered at Ottawa, Ontario, on November 20, 2008.

REASONS FOR JUDGMENT BY:

TRUDEL J.A.

CONCURRED IN BY:

**LÉTOURNEAU J.A.
NOËL J.A.**

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REASONS FOR JUDGMENT

TRUDEL J.A.

[1] The appellant has twice attempted in vain to sue the federal Crown for \$750 million on the grounds of having been interrogated and tortured by Moroccan intelligence agents working in cooperation with and under the supervision of the Canadian Security Intelligence Service (CSIS) and the American CIA following his arrest by the Ottawa-Carleton Police Service for a domestic dispute.

[2] This is an appeal from the order of Deputy Judge Lagacé of the Federal Court (the judge), T-4-08, dated March 5, 2008, striking out the appellant's second statement of claim.

[3] Justice Lagacé concluded that [TRANSLATION] "the facts related in the new statement of claim clearly pertain to foreign or municipal authorities over which this Court has no jurisdiction" and that "a close reading of the record, in particular the new statement of claim in question and its supporting documents, does not disclose a reasonable cause of action against the [respondent] but a clear abuse of process on the part [of the appellant]": Order at page 2.

[4] The appellant's first statement of claim had been struck out by Prothonotary Tabib for the same reason, namely that there was no cause of action against the respondent (decision T-1898-07, dated December 19, 2007).

[5] The appellant submits that the respondent is liable and challenges the trial judge's conclusion that the facts related in the new statement of claim pertain to foreign or municipal authorities on the grounds that [TRANSLATION] "a foreign authority cannot mount such a large-scale operation with a team of several agents and their listening and shadowing equipment on the territory of a sovereign country such as Canada without a prior agreement between the secret service of the country in question and that of the country in which these operations are carried out" (appellant's memorandum of fact and law, page 17).

[6] The alleged involvement of the federal Crown is based on the [TRANSLATION] “[appellant’s] certitude that the Ottawa police simply supported CSIS and lent it power of arrest, which CSIS does not have, so that the applicant could be interrogated and brainwashed” (at paragraph 65 of the second statement, appeal book, page 29).

[7] The appellant's statement of claim must contain a concise statement of the material facts on which his cause of action against the respondent relies in order to satisfy rules 174 and 177 of the *Federal Courts Rules*, S.O.R./98-106 Canada (*Baird v. Canada*, 2007 FCA 48). In this case, the vague, hypothetical allegations against the respondent contained in the statement of claim are based on pure speculation and do not make it possible to establish a cause of action.

[8] In my opinion, the appellant has not shown that the judge made a palpable and overriding error in concluding that there was a want of a reasonable cause of action.

[9] The same is true of the judge's conclusion that the appellant's new statement of claim is a [TRANSLATION] "clear abuse of process". This conclusion is supported by a close reading of the second statement of claim in which the appellant merely makes the same allegations as in his preceding statement of claim, which was struck out by the prothonotary.

[10] Therefore, the intervention of this Court is not required, and I propose dismissing the appeal with costs set at \$1,000.00 in accordance with the respondent's request.

“Johanne Trudel”

J.A.

Certified true translation
Johanna Kratz

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-107-08

(APPEAL FROM ORDER T-4-08 OF DEPUTY JUDGE LAGACÉ OF THE FEDERAL COURT DATED MARCH 5, 2008.)

STYLE OF CAUSE: MOSTAFA MOUFID v.
HER MAJESTY THE QUEEN

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: November 18, 2008

REASONS FOR JUDGMENT BY: TRUDEL J.A.

CONCURRED IN BY: LÉTOURNEAU J.A.
NOËL J.A.

DATED: November 20, 2008

APPEARANCES:

MOSTAFA MOUFID	REPRESENTING HIMSELF
ALEXANDRE KAUFMAN	FOR THE RESPONDENT

SOLICITORS OF RECORD:

John H. Sims, Q.C. Deputy Attorney General of Canada	FOR THE RESPONDENT
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