

Federal Court of Appeal



Cour d'appel fédérale

Date: 20230315

Dockets: A-276-20

A-274-20

A-275-20

Citation: 2023 FCA 62

**CORAM: WEBB J.A.
RENNIE J.A.
LOCKE J.A.**

BETWEEN:

SAJJAD ASGHAR

Appellant

and

**HIS MAJESTY THE KING IN RIGHT OF CANADA and
THE PRIME MINISTER OF CANADA JUSTIN
TRUDEAU**

Respondents

Heard at Toronto, Ontario, on March 15, 2023.
Judgment delivered from the Bench at Toronto, Ontario, on March 15, 2023.

REASONS FOR JUDGMENT OF THE COURT BY:

LOCKE J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on March 15, 2023).

LOCKE J.A.

[1] Sajjad Asghar appeals from three decisions of the Federal Court. In one, the Federal Court granted the Crown's motion to strike Mr. Asghar's statement of claim on the basis that it was plain and obvious that the claim could not succeed. Because the statement of claim was

struck, the Federal Court's other two decisions under appeal ruled that it was not necessary to consider either Mr. Asghar's motion for injunctive relief or the Crown's motion to strike Mr. Asghar's notice of constitutional question.

[2] Mr. Asghar's claim was against the federal Crown and sought various remedies related to an alleged conspiracy to kill and/or otherwise harm him. The Federal Court described the various aspects of Mr. Asghar's claim, and struck Mr. Asghar's claim on the basis that each of the allegations therein suffered from one or more deficiencies. These deficiencies included (i) the allegations did not concern torts committed by servants of the federal Crown, (ii) they raised issues that are not justiciable, (iii) some claims were scandalous, frivolous or vexatious, and (iv) some claims were barred by limitation periods.

[3] Mr. Asghar does not dispute that the usual threshold for striking a claim is as applied by the Federal Court, as discussed in *Asghar v. Canada*, 2017 FC 947 at paragraphs 10 to 13, and the authorities cited therein. Mr. Asghar also does not dispute that, to be successful, appeals such as these must generally be based on either an error of law or a palpable and overriding error of fact or of mixed fact and law by the Federal Court: *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235. However, Mr. Asghar argues that his claim should be treated differently because it concerns organized crime and because the incidents he cites are continuing. In our view, there is no basis to apply a different legal test to such a claim, and that the legal tests described above should apply here. This Court does not have the power to create a new legal test in the present circumstances.

[4] We are not convinced that the Federal Court made any reviewable error in concluding that the allegations in issue suffered from the deficiencies mentioned above, and that the claim should be struck. Mr. Asghar cites some allegations he made that were not discussed by the Federal Court. However, this is not sufficient to persuade us that the Federal Court ignored relevant evidence. The Federal Court was not required to discuss each and every one of Mr. Asghar's allegations, as we assume that the Federal Court considered all of them. Mr. Asghar acknowledged before us that, in the event that we apply the usual legal tests for striking a claim and for allowing an appeal, his appeals should be dismissed.

[5] Another issue that merits comment in these appeals is the parties' failure to comply with the Order of Justice Marianne Rivoalen dated October 1, 2021 (the Order). As noted in this Court's Direction dated March 9, 2023 (the Direction), the Order required the parties to file (i) the joint book of authorities within 20 days after service of the respondents' memorandum of fact and law, and (ii) no later than two weeks before the hearing of the present appeals, paper copies of condensed books containing extracts from the appeal book and the authorities that the parties intended to rely on in their submissions. The parties failed to provide the joint book of authorities within the stipulated time. With regard to the condensed books, neither party complied at all. The Order also provided that, should the appellant fail to comply with the terms thereof, the appeal "will be dismissed without further notice to him." As noted in the Direction, Mr. Asghar was asked at the hearing to address why his appeal should not be dismissed for failure to comply with the Order. The respondents were also asked to explain their failures to comply. The parties explained and apologized for their failures, and the hearing proceeded on the merits.

[6] The present appeals will be dismissed on the merits. The respondents' failures to comply with the Order will be reflected in costs. Despite the respondents' request for costs in the amount of \$3000, no costs will be awarded.

"George R. Locke"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKETS: A-276-20, A-274-20, A-275-20

STYLE OF CAUSE: SAJJAD ASGHAR v. HIS
MAJESTY THE KING IN RIGHT
OF CANADA AND THE PRIME
MINISTER OF CANADA JUSTIN
TRUDEAU

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MARCH 15, 2023

**REASONS FOR JUDGMENT OF THE COURT
BY:** WEBB J.A.
RENNIE J.A.
LOCKE J.A.

DELIVERED FROM THE BENCH BY: LOCKE J.A.

APPEARANCES:

Sajjad Asghar FOR THE APPELLANT
(On his own behalf)

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