

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Morriss v. British Columbia (Attorney General)*,
2023 BCCA 472

Date: 20231213
Docket: CA49222

Between:

Sean Morriss

Appellant
(Petitioner)

And

**The Attorney General of British Columbia and
His Majesty the King in Right of the Province of British Columbia**

Respondents
(Respondents)

Before: The Honourable Madam Justice Saunders
The Honourable Justice Griffin
The Honourable Mr. Justice Butler

On appeal from: An order of the Supreme Court of British Columbia, dated
June 28, 2023 (*Morriss v. British Columbia (Attorney General)*, 2023 BCSC 1110,
Chilliwack Docket S39807).

Oral Reasons for Judgment

The Appellant, appearing in person: S. Morriss

Counsel for the Respondents: F. de Lima
S. Lachance, Articled Student

Place and Date of Hearing: Vancouver, British Columbia
December 13, 2023

Place and Date of Judgment: Vancouver, British Columbia
December 13, 2023

Summary:

The appellant challenges an order striking his petition pursuant to R. 9-5(1). Held: Appeal dismissed. There is no discernable factual or legal basis for the petition.

[1] **GRIFFIN J.A.:** Mr. Morriss appeals an order of Madam Justice Walkem dismissing his petition, made June 28, 2023, with reasons indexed at 2023 BCSC 1110.

[2] A judge may strike a petition pursuant to Rule 9-5(1) on a number of grounds including that:

- (a) it discloses no reasonable claim or defence, as the case may be.
- (b) it is unnecessary, scandalous, frivolous or vexatious,
... or
- (d) it is otherwise an abuse of the process of the court, ...

[3] The judge relied on each of R. 9-5(1)(a), (b), and (d), finding that the petition was largely incomprehensible and failed to articulate a basis for any relief, was vexatious, and was an abuse of process.

[4] Mr. Morriss’s petition asserts that mining claims in Tamihi Creek were “scammed” from him by the Hon. David Eby, K.C. and the Province. The pertinent sections of the short petition read as follows:

Part 1: ORDER(S) SOUGHT

- 1. Board and Room for David Eby for 24 hours.
- 2. Return of Mining Claims #1037467 [698.55 ha.] and #1039657 [84.65 ha.] in good standing.

Part 2: FACTUAL BASIS

- 1. David Eby facilitated this “Scam”
- 2. These Mineral Claims, #1037467 [698.55 ha.] and #1039657 [84.65 ha.] were “Scammed” from this Petitioner.

Part 3: LEGAL BASIS

- 1. Scamming is an Illegal Act in British Columbia
- 2. As May Deem Necessary.

[5] There is simply no discernable factual or legal basis to his petition. Mr. Morriss has failed to set out any decision to be judicially reviewed, identify grounds for review or identify any legal basis for a viable remedy.

[6] Mr. Morriss takes issue with the use of the word vexatious to describe his pleadings. I note he was not described by the judge as a vexatious litigant in this case. Typically, pleadings are described as frivolous and vexatious where they fail to disclose any claim known in law and are obviously unsustainable: see Justice Romilly in *Citizens for Foreign Aid Reform Inc. v. Canadian Jewish Congress*, 36 C.P.C. (4th) 266 at para. 47, 1999 CanLII 5860 (B.C.S.C.); *May v. Hartin* (1939), 2 D.L.R. 104, 1938 CanLII 470 (B.C.C.A.). As described in *May*, to permit such an action to proceed would be “to allow the defendant to be vexed under the form of legal process when there could not at any stage be any doubt that the action was baseless”. Descriptions of such pleadings may include, but are not limited to, situations where a litigant is seeking to re-litigate about a subject matter that they have already litigated.

[7] I reach the above conclusion regarding the deficiencies in the petition based on the form of the petition only. These deficiencies are so apparent that the only remedy is striking it under Rule 9-5(1)(b). I find it unnecessary to review Mr. Morriss’s affidavit in any detail.

[8] Mr. Morriss has not shown that the judge made any error in striking his petition. I would dismiss his appeal.

[9] **SAUNDERS J.A.:** I agree.

[10] **BUTLER J.A.:** I agree.

[11] **SAUNDERS J.A.:** The appeal is dismissed.

“The Honourable Justice Griffin”