

IN THE COURT OF APPEAL OF MANITOBA

Coram: Chief Justice Richard J. Chartier
Mr. Justice William J. Burnett
Mr. Justice Christopher J. Mainella

BETWEEN:

| | | |
|---|---|---|
| <i>DEREK JAMES ARTHUR DUNLOP</i> |) | |
| |) | |
| (Plaintiff) Appellant |) | <i>No appearance</i> |
| |) | <i>for the Appellant</i> |
| - and - |) | |
| |) | <i>No appearance</i> |
| <i>JUSTICE LESLIE PRINGLE,</i> |) | <i>for the Respondent S. Hewitt</i> |
| <i>JUSTICE JACK GROSSMAN,</i> |) | |
| <i>OFFICE OF THE CROWN ATTORNEY,</i> |) | <i>P. D. Stern</i> |
| <i>DAVID WRIGHT, THE DIRECTOR OF</i> |) | <i>for the Respondents</i> |
| <i>CROWN OPERATIONS - MINISTRY</i> |) | <i>Pringle and Grossman JJ</i> |
| <i>OF THE ATTORNEY GENERAL,</i> |) | <i>and on his own behalf</i> |
| <i>ANDREW LOCKE, L. JACEK,</i> |) | |
| <i>THE OFFICE OF THE INDEPENDENT</i> |) | <i>J. R. Koch</i> |
| <i>POLICE REVIEW DIRECTOR,</i> |) | <i>for the Respondent</i> |
| <i>FEDERICO DELA TORRE, TORONTO</i> |) | <i>Sharp (Master)</i> |
| <i>POLICE SERVICE, MANDEEP</i> |) | |
| <i>RANDHAWA, MARK HALJASTE,</i> |) | <i>Appearances waived</i> |
| <i>CARLO COLACCI, SETH</i> |) | <i>for J. A. T. Tallman and</i> |
| <i>RIETKOETTER, LIONEL DOE,</i> |) | <i>J. L. Thoburn</i> |
| <i>PALVINDER RANDHAWA,</i> |) | <i>for the remaining Respondents</i> |
| <i>ANDREW BOYCE, MICHAEL JUST,</i> |) | <i>and on their own behalf</i> |
| <i>ROBERT HARRIS, SARAH HEWITT,</i> |) | |
| <i>PAUL STERN, JONATHAN THOBURN,</i> |) | <i>Appeal heard and</i> |
| <i>JOSHUA TALLMAN AND</i> |) | <i>Decision pronounced:</i> |
| <i>MASTER C. W. SHARP</i> |) | <i>November 2, 2018</i> |
| |) | |
| (Defendants) Respondents |) | |

CHARTIER CJM (for the Court):

[1] The backdrop to this appeal is a claim by the plaintiff that an investigation by the Toronto Police Service concerning an event that occurred

in Toronto, Ontario in 2015, was mishandled. To fully understand the reason this Ontario matter is before the Manitoba courts, a little more context is required. In 2011, the plaintiff was declared a vexatious litigant in Ontario. The effect of this order is to prohibit him from commencing court proceedings in Ontario before obtaining leave to do so. His appeal against that order was dismissed by the Ontario Court of Appeal in 2014 (see *Dunlop v Glasser*, 2014 ONCA 354).

[2] In 2017, rather than seek leave to commence proceedings in Ontario, the plaintiff issued a statement of claim in Manitoba relating to the Toronto Police Service's 2015 investigation. On June 1, 2017, that action was struck by a Master on the basis that Manitoba had neither the jurisdiction over the subject matter of the claim, nor was it the proper forum to adjudicate the claim.

[3] On June 29, 2017, the plaintiff issued essentially the same claim against the same defendants, naming as additional defendants legal counsel for the original defendants, as well as the Master who struck the original claim. On November 23, 2017, the plaintiff's request for an adjournment was dismissed and his statement of claim was struck. The motion judge found, among other reasons, that jurisdiction *simpliciter* had not been established. Key to his decision was that there was no real and substantial connection between the claim and Manitoba.

[4] The plaintiff has appealed. In addition, last week, he moved to adjourn this appeal.

[5] With respect to the adjournment, counsel for the defendants oppose the request. Given the merits of this appeal, we are of the view that it is not in the interests of justice to adjourn this appeal.

[6] On the appeal proper, we are all of the view that there is absolutely no merit to this appeal. The motion judge correctly stated and applied the law and appropriately exercised his discretion in dismissing the plaintiff's adjournment request and in striking his claim. Moreover, we agree with the motion judge's statement that the plaintiff's claim is an abuse of the court process.

[7] As a result, the appeal is dismissed with costs. In terms of costs, all of the defendants, with the exceptions of Pringle J, Grossman J and their counsel (Stern), have asked for tariff costs and that is what we award. With respect to the remaining defendants, this is an appropriate case for enhanced costs, which we fix at \$10,000, inclusive of taxes and disbursements.

Chartier CJM

Burnett JA

Mainella JA
