

CANADA / JUDGMENT

## Chorney v. British Columbia (Attorney General)

2022 BCSC 1480

COURT

Supreme Court of British Columbia

DECIDED

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2022 BCSC 1480 Chorney v. British Columbia (Attorney General)

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Chorney v. British Columbia (Attorney General),

2022 BCSC 1480

Date: 20220825

Docket: S226898

Registry: New Westminster

Between:

Judy Lynn Chorney

Plaintiff

**And**

Her Majesty the Queen in Right of the Province of British Columbia, as Represented by the  
Ministry of Attorney General and Ministry of Public Safety and Solicitor General

Defendants

Before: The Honourable Justice A. Ross

Reasons for Judgment

The Plaintiff, appearing on her own behalf:

J. Chorney

Counsel for the Defendant:

T. Mason

Place and Date of Trial/Hearing:

Port Coquitlam, B.C.

July 26, 2022

Place and Date of Judgment:

New Westminster, B.C.

August 25, 2022

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- [1] The defendant, Her Majesty the Queen in Right of British Columbia (the "Crown"), applies for an order striking out the notice of civil claim and dismissing the plaintiff's action. The Crown's arguments are based on several grounds which I discuss below.
- [2] In response, the plaintiff's position is that her claim is properly based on the mistreatment that she and her family have received from various government agencies and their employees since the 1990s.
- [3] I note that the plaintiff is self-represented in this action. She was ably assisted by a friend at this hearing.
- [4] I also wish to stress that I have significant sympathy for the plaintiff. As I discuss below, she has lost two daughters. She is the primary caregiver for her disabled grandson, among others. She is a resilient person who has dealt with many setbacks over the years.
- [5] Despite my sympathy for the plaintiff, it is clear that her claim must be dismissed.

## Issues and Findings

- [6] The issues for me to decide in this application are whether the province has established:
  - a) that the plaintiff's action is bound to fail;
  - b) that the plaintiff's allegations are frivolous, vexatious or scandalous; or
  - c) that the plaintiff's notice of civil claim is an abuse of process.
- [7] For the reasons set out below, I grant the defendant's application. I strike the notice of civil claim and I dismiss the action. I do not grant liberty to amend. I find that the action is
  - a) bound to fail because the plaintiff has no standing; and
  - b) is an abuse of process because it represents a collateral attack on a prior decision of this Court.
- [8] Having made those two findings, I do not need to consider whether the action is frivolous or vexatious.

## The Notice of Civil Claim

- [9] In order to understand the notice of civil claim, certain tragic events in the life of the plaintiff and her family must be understood. Briefly described, the main events are as follows:

- a) For more than two decades, the plaintiff and her family lived with a man named John Duncan. She says that he was like an uncle or surrogate grandfather to her children. In addition, the plaintiff held his power of attorney. I understand that Mr. Duncan was removed from the Chorney family home by Mr. Duncan's sister, who relied upon a different power of attorney to take control of his person and his finances. Mr. Duncan was hospitalized at a facility within the Fraser Health Authority.
  - b) Two of the plaintiff's daughters, ShaMay Chorney and Ciera Chorney, have died. I understand that both deaths were ruled to be by accidental drug overdose. The plaintiff does not accept those findings. She also believes that the two women's remains were abused after their deaths.
  - c) The plaintiff's grandson, Amari D. Johnson, was born to the plaintiff's daughter ShaMay Chorney. Amari has suffered from a severe disability since birth. Since ShaMay's death, the plaintiff is now his primary caregiver. She alleges that there was negligence, and a cover-up, in relation to the care that ShaMay received before and during his birth.
  - d) In addition, the plaintiff has had several disputes with different ministries of the provincial government over the past quarter century, including the apprehension of her son, Andre Chorney.
- [10] Elements of these events are included in the notice of civil claim.
- [11] The statement of facts in the notice of civil claim is 153 paragraphs long. It is convoluted. It is not capable of a response. By that, I mean that it would be difficult or impossible for the defendant to properly understand all of the allegations and properly respond to them.
- [12] In the section of the notice of civil claim that sets out the "relief sought" by the plaintiff, Ms. Chorney described the following remedies that she is seeking:
- 154. Assign the name of CHORNEY to be listed on the birth certificate of AMARI D. JOHNSON
  - 155. Correct all or of any medical files relating to AMARI D. JOHNSON and SHAMAY CHORNEY that have been falsified, and/or altered to be misleading with misinformation.
  - 156. Order a proper and full investigation into the murder ShaMay Geralene Chorney and the cover-up of her murder, so that illegal organ harvesting could occur without notice being paid to those who facilitate such gross and indecent illegal activities in the Province of British Columbia, Canada.
  - 157. Grant letter of administration to Judy Chorney over the affairs of ShaMay Chorney.
- [13] Paragraphs 158 and 159 of the notice of civil claim reference two other BC Supreme Court action numbers (S171469 and S171468). I will return to discuss those two actions below.

[14] As noted above, the foundation of the notice of civil claim is mistreatment of the plaintiff and her family by various government agencies and their employees since the 1990s. The claims fall into several general categories relating to specific individuals.

Mr. John Duncan

[15] I am informed that Mr. Duncan passed away in 2017.

[16] The notice of civil claim alleges that, for a period of 23 years, until 2015, Mr. Duncan lived with the plaintiff and her family. The plaintiff held Mr. Duncan's enduring power of attorney.

[17] The plaintiff alleges that Mr. Duncan's sister, in combination with the Canadian Imperial Bank of Commerce ("CIBC") and the Fraser Health Authority, improperly removed the plaintiff as Mr. Duncan's attorney. The plaintiff alleges that, at the same time, Mr. Duncan's sister removed Mr. Duncan from the plaintiff's home and then prevented the Chorney family from visiting with him through to the time of his death. She says that all of the steps were taken against Mr. Duncan's wishes. She wants the circumstances of her power of attorney and his removal from her home to be investigated.

Ciera Chorney

[18] Ciera Chorney was the plaintiff's daughter. She died in March 2020 of an apparent overdose.

[19] The notice of civil claim alleges that the plaintiff was not allowed to identify the body of her daughter for 19 days after her death. She also alleges that she has not received the results of any investigation into her daughter's death. She alleges that there has been misconduct by employees of the Fraser Health Authority. She further alleges that Ciera's organs were illegally harvested and sold on the black market. The plaintiff says that these acts constitute evidence of a pattern of public sector employees targeting vulnerable families like hers for nefarious purposes (those purposes including illegal organ harvesting).

**Andre Chorney**

[20] Andre Chorney is the plaintiff's son. She alleges that he was apprehended improperly by the Ministry of Child and Family Development. She was forced to retain counsel and obtain a provincial court order returning Andre to her care. She points to this episode as another example of members of the public union sector targeting her because she is a vulnerable person.

[21] Andre was returned to her care in 2014.

**ShaMay Chorney**

- [22] Another of the plaintiff's daughters, ShaMay Chorney, was pronounced dead on April 11, 2018. ShaMay had been in hospital for nine days before she was pronounced dead. It is not disputed that ShaMay died of a drug overdose. However, the plaintiff alleges that her daughter was murdered. For that reason, and for the reasons set out below, she seeks an order of this court requiring a full investigation.
- [23] Further, the plaintiff alleges that the RCMP and the Fraser Health Authority provided false information about the circumstances of ShaMay's death. Included in that allegation is the plaintiff's belief that her daughter actually died before she was admitted to hospital. The plaintiff alleges that the hospital then placed the dead body in a hospital bed for nine days while the body deteriorated and decomposed. The plaintiff alleges that she could tell that her daughter had been embalmed on the first day she was in hospital. I understand that ShaMay Chorney was pronounced dead after certain life-support machines were unplugged.
- [24] The plaintiff also says that the family's wishes regarding visitation to her daughter's hospital room were ignored. I understand that the family did not want ShaMay's boyfriend to be permitted to visit her. She also alleges that her daughters' organs were illegally harvested by a syndicate of criminals. The plaintiff links that allegation to the province by saying that the province uses hospitals to illegally harvest organs, using its employees to carry out heinous crimes, participate in witchcraft and Satanism, target the Chorney family and endorse gang stalking behaviour against them.
- [25] The plaintiff alleges that there has been no proper police investigation into her daughter's death. In addition, she says that the medical records have been falsified to indicate that the plaintiff, as ShaMay's mother, refused to donate ShaMay's organs.
- [26] The plaintiff seeks an investigation into these allegations as well as access to ShaMay's medical records.

**Amari Johnson**

- [27] Amari is the plaintiff's grandson and the son of ShaMay Chorney.
- [28] I am informed that Amari was born with cerebral palsy. The plaintiff complains about the medical care that ShaMay received leading up to, and at the time of, his birth. I understand that he was born at a hospital within the Fraser Health Authority. The plaintiff says that the hospital records relating to his birth have been edited. This is the other element of correction of hospital records that the plaintiff seeks in the notice of civil claim.

## Other Claims

[29] In addition to the events in the categories listed above, the plaintiff makes other allegations in the notice of civil claim spanning the period from the 1990s through to the present time. Those allegations include the removal of the Chorney family from social assistance and other public programs beginning in the 1990s. She says that this series of events discloses a pattern of conduct by public sector union employees against her and her family.

## Position of the Defendant

[30] The defence argument is multifaceted in order to address the variety of claims made in the notice of civil claim.

## John Duncan

[31] As part of the evidence on this application, defence counsel tendered pleadings and prior decisions of this court in other actions commenced by Ms. Chorney. Those actions have an influence on my decision.

[32] In Action No. S171469, the plaintiff sued the Fraser Health Authority. I note that this is one of the two actions referenced in the plaintiff's notice of civil claim (see paragraph 14 above). That action related to John Duncan and the power of attorney.

[33] In the notice of civil claim in Action No. S171469, the plaintiff alleged that the Fraser Health Authority provided negligent medical treatment to Mr. Duncan and further that the negligent treatment led Mr. Duncan to being removed from the plaintiff's home and care. Further, the actions of the health authority allowed Mr. Duncan's sister to take over as his attorney under a new power of attorney. The plaintiff further alleged in that action that she had not seen Mr. Duncan since 2015.

[34] Within that prior action (S171469), the defendant brought an application to strike the pleadings and dismiss the plaintiff's claim. The defendant's application was granted by Justice Bowden on December 7, 2017. Justice Bowden found (at para. 8) that "it is plain and obvious that the claims that I could discern from the notice of civil claim would fail, even if the alleged facts are assumed to be true."

[35] I note that Justice Bowden stated, in his oral reasons at para. 5:

She did not provide the court with a copy of a power of attorney. As it was a power of attorney that related only to financial matters it would not give her standing to proceed in court against the Fraser Health Authority on his behalf.

- [36] In this action, the plaintiff argues that this paragraph contains a factual error. She says that she had an enduring power of attorney. Hence, my understanding is that she brings this action against the Crown to have that factual matter cleared up and, thus, have her claim heard. The defendant says that this is an obvious improper collateral attack on Justice Bowden's decision and, thus, it is an abuse of process. I discuss that submission below.
- [37] Continuing on with the narrative, after the plaintiff's action against Fraser Health Authority was dismissed by Justice Bowden, Ms. Chorney sought to appeal that decision. She applied to the Court of Appeal for a "no fee" order. On February 28, 2018, Justice Savage dismissed the plaintiff's "no fee" application on the basis that her appeal had no merit and was bound to fail. He wrote at paras. 10-11:
- [10] In my view, this appeal is one that is bound to fail, as Ms. Chorney's pleadings disclose no prospect of success. Ms. Chorney lacks standing to bring an action for alleged harms done to Mr. Duncan, whether he is alive or dead, which on the pleadings is not clear. If he were alive, and if she only had a power of attorney, that would not be sufficient to support these claims. If he was deceased the action would have to be commenced by or on behalf of his estate. If he was incapacitated she would have to be appointed his guardian ad litem. In the hearing today Ms Chorney advised that Mr. Duncan is in fact deceased.
- [11] If, on the other hand, Ms. Chorney brings an action on the basis of harms done to her, the law is clear that the Fraser Health Authority must owe her a duty of care, and she must allege facts demonstrating that they breached that duty of care. The pleadings are prolix, but that said, the facts alleged in the pleadings do not persuade me that the judge erred in finding that the claim disclosed no reasonable prospect of success, as it is not alleged that Fraser Health Authority owed her a duty of care and breached that duty.
- [38] Justice Savage further noted that, to the extent the plaintiff complains of criminal activity, the proper remedy is a complaint to the police. He noted that such allegations are not matters for the civil courts.
- [39] On the basis of these two decisions, it is my understanding that the action against Fraser Health Authority has been dismissed. However, the appeal of that dismissal is still (technically) extant.
- [40] The second action commenced by the plaintiff (S171468) names CIBC as the defendant. In that action, the plaintiff claims that the bank improperly removed her as the attorney for Mr. Duncan. As noted, Mr. Duncan's sister took over as his attorney pursuant to a new power of attorney.
- [41] The CIBC action was filed on January 4, 2018. I note the timing of that filing. It was less than a month after Justice Bowden dismissed the plaintiff's action against Fraser Health Authority.

- [42] I am informed that CIBC has brought an application to strike the plaintiff's notice of civil claim, but it has not been heard as of the date of this hearing. The status of that action is not important for my decision, but its existence is.
- [43] On the basis of the decisions of Justice Bowden and Justice Savage described above, the Crown submits that (at least) two insurmountable roadblocks stand in the plaintiff's path (in respect of the claims relating to Mr. Duncan):
- 1) Justice Bowden dismissed her prior claim against Fraser Health Authority.
  - 2) The Court of Appeal dismissed the plaintiff's application for a "no fee" order. However, the appeal itself is still extant.
- [44] The Crown submits that the allegations in this action, as they pertain John Duncan, disclose no new cause of action against the Crown. The named defendants are "Her Majesty the Queen in Right of British Columbia, as represented by the Ministry of the Attorney General and Ministry of Public Safety and Solicitor General."
- [45] The Crown submits that these parties are only named on the basis that they (allegedly) control the Fraser Health Authority. The Crown submits that this action is a direct attempt to side-step, or collaterally attack, Justice Bowden's decision and have the same issues determined by another member of this Court. The Crown further submits that the plaintiff's action against CIBC represents an additional step by the plaintiff in her attempt along the same lines.
- [46] The Crown does not argue that the issues in this action are res judicata. The new action does not involve the same parties. However, the Crown argues that this action is an abuse of process. The Crown submits that this action cannot proceed because it is a collateral attack on Justice Bowden's decision regarding issues that relate to Mr. Duncan. The Crown submits that the proper avenue for the plaintiff to seek to overturn Justice Bowden's decision would be an appeal of his decision (which she did). As noted, that appeal is still (barely) alive. Justice Savage dismissed the "no fee" application because the appeal had no chance of success. He also set out the reasoning behind his decision. However, he did not dismiss the appeal.
- [47] I accept the Crown's submission on this point. The portion of the notice of civil claim dealing with claims relating to Mr. Duncan and the power of attorney is an attempt to launch a collateral attack on Justice Bowden's decision. Such an attempt is clearly an abuse of the court's process.
- [48] Beyond the Crown's first argument, I further find that this portion of the claim is bound to fail. It is bound to fail for the reasons set out by Justice Savage (above). Included in those reasons is the fact that Mr. Duncan died in 2017. Any action would have to be brought by the executor or administrator of his estate. Ms. Chorney is neither. She has no standing to bring any action for any wrong suffered by Mr. Duncan. Further, none of the named defendants in this action owed a duty of care to Ms. Chorney in respect of the issues relating to Mr.

Duncan.

[49] I further note that this action was commenced in 2020. On top of all other issues, the limitation period for any action would have expired. More than two years elapsed between Mr. Duncan's death and the commencement of this action. It is clear that the plaintiff could not argue that the running of the limitation period was tolled (or delayed) because she commenced two prior actions alleging the same wrongs by other entities.

[50] Hence, I find that this action, as it relates to allegations regarding Mr. Duncan, must be dismissed for at least three reasons:

- 1) It is a collateral attack on the decision of Justice Bowden and, as such, an abuse of process.
- 2) It is bound to fail because the plaintiff lacks standing to bring the action.
- 3) Any limitation period has expired.

[51] On that basis, the claims relating to Mr. Duncan must be dismissed.

## Other Claims

[52] Before addressing the plaintiff's other claims, I note that, in submissions, the plaintiff, through her litigation friend, acknowledged that some of the allegations discussed below (and in the balance of the notice of civil claim) were driven by Ms. Chorney's suspicions and emotions. I understand from that submission that the main issues that the plaintiff wished to pursue related to Mr. Duncan. Hence, the issues discussed below, in my opinion, are less tenable than the allegations relating to Mr. Duncan. However, the following allegations are not the subject of any existing or past civil proceeding.

[53] The Crown's submission in relation to the remaining elements of the notice of civil claim can be divided into four main categories:

- 1) None of the harms alleged in the notice of civil claim was done to the plaintiff. As a result, she is not a proper plaintiff.
- 2) None of the harm alleged in the notice of civil claim was perpetrated by the defendant. As a result, the province is not a proper defendant.
- 3) This Court does not have the power or jurisdiction to order any investigation.
- 4) Other allegations relate to long-past events that are clearly out of time.

[54] In addition, despite the preliminary nature of this application, the defendant submits that I should not accept the allegations in the notice of civil claim as being either true or capable of being proven.

[55] In that regard, I return to the description of the various claims that I set out above.

**Ciera Chorney**

[56] The plaintiff alleges misconduct by employees of the Fraser Health Authority in respect of the death of Ciera Chorney, the plaintiff's daughter. The plaintiff alleges that Ciera's organs were illegally harvested and sold on the black market.

[57] The problems with these allegations are as follows:

- a) The proper plaintiff would be the administrator of Ciera's estate.
- b) The plaintiff is not the administrator of Ciera's estate.
- c) If there was any basis for the claim, the proper claim might possibly be made against the Fraser Health Authority. There is no claim against the current defendants.

[58] I accept the defence submission on these points. The action as it relates to issues surrounding the death of Ciera Chorney is bound to fail. It is dismissed.

**Andre Chorney**

[59] The plaintiff complains that the Ministry of Child and Family Development illegally and improperly apprehended her son, Andre Chorney.

[60] As set out above, the allegations relating to Andre Chorney occurred before he was returned to her care (in or before 2014). The limitation period for any such claim (if one exists) has long since passed.

[61] The claim as it relates to complaints relating to Andre Chorney is dismissed.

**ShaMay Chorney**

[62] The plaintiff makes several allegations relating to the death of ShaMay Chorney. She alleges that ShaMay was murdered and that the RCMP provided false information to the plaintiff about Shamay's death. The plaintiff also alleges that ShaMay was dead before she was admitted to hospital and that the hospital staff allowed her corpse to decompose in hospital for nine days before she was pronounced dead on April 11, 2018. The plaintiff seeks a court order requiring a full investigation of circumstances of her death.

[63] There are myriad problems with these allegations and relief, including:

- 1) The defendant has no relationship to the RCMP.
- 2) This court does not have the power to order the named defendants (or any other entities) to conduct a full investigation.
- 3) The Crown is not a proper defendant in relation to these allegations as they related to the hospital and hospital employees.
- 4) In addition to the other issues, this action was commenced April 20, 2020. ShaMay Chorney died more than two years before the action was commenced.

- [64] I accept all of the defence submissions set out above. These four grounds would be sufficient to dismiss the claims as they relate to ShaMay Chorney.
- [65] In addition to the fatal flaws listed above, there is a further fatal flaw with the allegations relating to ShaMay Chorney's hospitalization and death.
- [66] To the extent that the plaintiff alleges that certain entities covered up ShaMay's murder so that illegal organ harvesting could occur, the plaintiff links that allegation to the province by saying that the province uses hospitals to illegally harvest organs, using its employees to carry out heinous crimes, participate in witchcraft and Satanism, target the Chorney family and endorse gang stalking behaviour against them.
- [67] On this point, the Crown argues that I should subject the plaintiff's allegations to a sceptical analysis. The Crown submits that I should not accept, as facts, all of the allegations in the notice of civil claim. In support of that submission, the defendant relied on the Court of Appeal's decision in *Young v. Borzoni et al*, 2007 BCCA 16.
- [68] I accept this submission by the Crown. The allegations of illegal organ harvesting are, in a word, fantastical. They are bound to fail.
- [69] The allegations relating to the death of ShaMay Chorney are dismissed.

### **Amari D. Johnson**

- [70] With respect to the circumstances of the birth of Amari D. Johnson, the plaintiff alleges that employees at Fraser Health Authority were negligent, or worse, in respect of ShaMay's pregnancy and delivery.
- [71] As with the analysis above, the proper plaintiff in this circumstance would be Amari, via a litigation guardian. Ms. Chorney is not his litigation guardian.
- [72] Further, the province is not the proper defendant in relation to any medical malpractice.
- [73] On this last point, I wish to be clear. Nothing in these reasons should be interpreted as having any effect or impact on the right of Amari Johnson, by a properly appointed litigation guardian, to bring any action alleging medical negligence.
- [74] Further, this Court has no power to require any entity to correct the records relating to the care provided to ShaMay Chorney in respect of the birth of Amari.
- [75] The claims relating to ShaMay's pregnancy and Amari's birth are dismissed.

### **Other Claims**

- [76] Finally, I must address an underlying thread that pervades the notice of civil claim. The plaintiff alleges that she and her family have been stalked and harassed by members of public sector unions for decades. These allegations seek to address perceived wrongs relating to the family's eligibility for social assistance and other government programs.

- [77] The plaintiff's sweeping allegations in the notice of civil claim attempt to link all past complaints into a government-wide conspiracy to disenfranchise the plaintiff and her family. Those complaints go back to the 1990s. She describes those issues in terms of her family being stalked and harassed by the members of public sector unions.
- [78] Put simply, the plaintiff's litany of complaints relating to her perception of the manner in which she was treated by government employees do not constitute a cause of action.

### Summary and Order

- [79] As a result of my analysis above, I find sufficient grounds to strike the notice of civil claim and dismiss the entire action. Put simply, the notice of civil claim discloses no reasonable claim against the defendants. It is also bound to fail. It is (in relation to Mr. Duncan) an abuse of process.
- [80] The plaintiff's notice of civil claim is struck. The action is dismissed.
- [81] In respect of costs, as noted, the plaintiff brought a similar action which was dismissed. I have found that this action is an abuse of process. Despite my sympathy for the tragic losses suffered by the plaintiff, it would be wrong for me to countenance the improper steps that have been taken by the plaintiff in this case.
- [82] The defendant is entitled to costs at Scale B for the entire action.
- "A. Ross J."

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