

CANADA / JUDGMENT

Wu v. Canada (Attorney General)

2022 BCSC 2084

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Supreme Court of British Columbia

DECIDED

30 November 2022

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2022 BCSC 2084 Wu v. Canada (Attorney General)

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Wu v. Canada (Attorney General),

2022 BCSC 2084

Date: 20221130

Docket: 33318

Registry: Vancouver

Between:

Weimin Wu

Applicant

And

Attorney General of Canada

Respondent

Before: The Honourable Madam Justice Forth

Reasons for Judgment

The Applicant, appearing in person:

W. Wu

Counsel for the Respondent:

S. Rapley

Place and Date of Hearing:

Vancouver, B.C.

September 28, 2022

Place and Date of Judgment:

Vancouver, B.C.

November 30, 2022

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Introduction

[1] The applicant, Weimin Wu, is an inmate at the Mission Institution in Mission, BC. and filed a Writ of Habeas Corpus ("Writ") on August 30, 2022. On September 16, 2022, the respondent, the Attorney General of Canada ("AGC"), served an application seeking to have the Writ struck as disclosing no reasonable claim and being frivolous, vexatious, embarrassing, and

an abuse of the court process. The respondent further seeks a declaration declaring Mr. Wu a vexatious litigant pursuant to s. 18 of the Supreme Court Act, R.S.B.C. 1996, c. 443, and that he be precluded from commencing any future legal actions without leave of the Court.

- [2] On October 4, 2022, the Supreme Court of BC, Vancouver Registry, received Mr. Wu's application response via mail. The application response is addressed to the respondent although it is unclear if the respondent has been served this document. I permitted it to be filed since, in my view, there was no new information contained in it that would impact my decision on the respondent's application before me.
- [3] For the reasons set out below, I grant the respondent's application to strike the Writ. Further, I grant the vexatious litigant order but not with the condition that the respondent requested.

Factual Background

- [4] Mr. Wu is a federal inmate at Mission Institution. He was arrested on March 11, 1992 for the second-degree murder of his ex-wife. He pled guilty and was sentenced on October 5, 1993. He is currently serving a life sentence with no eligibility for parole for 12 years.
- [5] On January 18, 2019, Randy Kenning, Mr. Wu's parole officer, completed an "Assessment for Decision" report in which he recommended that full parole be granted.
- [6] On February 19, 2018, Dr. R.J. Howe, a forensic psychologist, prepared a psychological/psychiatric report to address the issue of Mr. Wu's suitability for full parole for deportation to his homeland. Dr. Howe opined that Mr. Wu represents a very low risk of reoffending and was fully supportive of his release for deportation. According to the report, Mr. Wu told Dr. Howe that he had kidnapped the victim somewhere in Indiana, United States and then drove her across the border into Ontario, Canada, eventually reaching Québec as a final destination. After getting stuck in a snow bank, "[h]e acted quickly by shooting her once in the head" and then "defiled her body to hinder identification".
- [7] On February 22, 2019, the Parole Board of Canada ("Parole Board") denied full parole for Mr. Wu on the basis that he presented as an undue risk on a full parole release. Mr. Wu appealed to the Parole Board of Canada, Appeal Division ("Appeal Division") which rendered a decision affirming the denial of full parole on May 27, 2019.

Nature of the Allegations Made

- [8] The Writ is lengthy, consisting of 25 pages of single-spaced allegations. The gist of the allegations is difficult to discern but include the following:
 - a) The AGC is "the Inhumanity-Brainwashed Respondent Deviants who has deceived and controlled the Federal Court";
 - b) Mr. Wu's parole board hearing was held in a "sham fashion in bad faith" by the Parole Board;

- c) The "Inhumanity-Brainwashed Respondent Deviants" abused its power in the course of Mr. Wu's appeal before the Appeal Division;
- d) The "malice controlled deviants" continue to justify "their obsessive compulsive malice in continuing inflicting cruel and unusual punishment" on Mr. Wu;
- e) Mr. Wu was wrongfully sentenced to a life sentence with eligibility for full parole at 12 years and he has been cruelly and unusually tortured and imprisoned for more than 30 years;
- f) Mr. Wu claims he is innocent of the second-degree murder on the basis that he legally lost competent control of his mental state due to fear and panic;
- g) Mr. Wu was defrauded and tortured into an "illegal sham guilty plea" of the second-degree murder;
- h) The alleged murder occurred in the United States and there is no evidence suggesting it happened in Canada. Therefore, as Canada did not have jurisdiction over the crime, it was illegal for a Canadian court to accept his murder plea;
- i) Mr. Wu has been "dehumanized and enslaved" by the Correctional Service of Canada ("CSC"), which have been framing him, falsifying charges, and torturing him "for their perverted fun";
- j) Mr. Wu claims that "the inhuman-compulsive-fixation-brainwashed-&-dehumanized psychopaths always falsify RCMP charges and frame" him;
- k) The Canadian authorities who have "mass-raped and mass murdered and mass-hide-buried hundred of thousands of autochthonous children" have been "brainwashed and dehumanized by the inhuman compulsive fixation"; and
- l) The CSC uses the "fantasized undue risk identity to nefariously frame" him.

[9] The remedies sought are as follows:

1. Grant the applicant full parole to be deported by the Canadian Border Service Agency ASAP, Or;
2. Order the stay of proceeding of the 2nd degree murder conviction against [Mr. Wu]. Or best:
3. Order to quash or stay the proceeding of the 2nd degree murder conviction against [Mr. Wu].
4. And make any other order to rectify this ongoing anti-humanitarian cruel and unusual alien abduction and brutalization against [Mr. Wu].

Other Proceedings

[10] Mr. Wu has made a number of habeas corpus and other applications over the years he has been incarcerated.

[11] A summary of some of them are:

- a) *Wu v. Canada (Attorney General)*, 2019 ABQB 902 -while an inmate at the Bowden Institution in Innisfail, Alberta, Mr. Wu sought, by a notice of motion of a Writ of habeas corpus, an order that he be transferred to a minimum-security prison near Montreal, Québec and an order for damages. The application was dismissed.
 - b) *Wu v. Canada (Attorney General)*, 2021 ABQB 749 [Wu #1] -Mr. Wu complained that he might be infected with COVID-19 and that he was wrongfully convicted of second-degree murder of his ex-wife in March 1992. The court struck the habeas corpus notice as "hopeless and an abuse of the court process".
 - c) *Wu v. Canada (Attorney General)*, 2021 ABQB 904 -Mr. Wu filed a "Notice of Motion for Remedy for Cruel and Unusual Punishment Inflicted by the Respondent with Years of Locking the Application in Segregation Prison Cell/Cage" in which he sought \$3,300 trillion and an order "setting aside" his second-degree murder conviction. Mr. Wu was directed to file a written submission within a time period. He failed to do so and as a result the application was struck as being "a hopeless and abusive proceeding". Costs of \$500 were awarded against Mr. Wu.
 - d) *Wu v. Canada (Attorney Canada)*, 2021 ABQB 1017 [Wu #2] - the AGC applied for an order that Mr. Wu become subject to the Judicature Act, R.S.A. 2000, c. J-2, ss. 23-23.1 and be declared a vexatious litigant. In the course of that proceeding, Mr. Wu sought to file another application for the issuance of a writ of habeas corpus complaining of being wrongfully denied deportation by way of full parole by the Parole Board. The leave application was denied.
- [12] I note that the Federal Court currently has in place an order prohibiting Mr. Wu from commencing any new proceedings or continuing any existing proceeding without leave of the court. The Federal Court order does not prohibit Mr. Wu from instituting any proceedings but requires him to seek leave first.

Issues

[13] The Writ, application, and submissions raise the following issues:

- 1) Should Mr. Wu's application for habeas corpus be struck on the grounds that it discloses no reasonable cause of action?
- 2) Is Mr. Wu's application unnecessary, frivolous, or vexatious, or an abuse of process?
- 3) Does this Court have jurisdiction to vary the decisions by the Parole Board and its Appeal Division?
- 4) Does this Court have the jurisdiction to stay or quash the second-degree murder conviction?
- 5) Should this Court declare Mr. Wu a vexatious litigant?

Issue 1: Should Mr. Wu's application for habeas corpus be struck on the grounds that it discloses no reasonable cause of action?

- [14] A claim will be struck where it is plain and obvious, assuming the facts pleaded to be true, that the pleading discloses no reasonable cause of action: *R. v. Imperial Tobacco Canada Ltd.*, 2011 SCC 42 at para. 17.
- [15] The writ of habeas corpus protects individuals from unlawful deprivations of their liberty: *Canada (Public Safety and Emergency Preparedness) v. Chhina*, 2019 SCC 29 at para. 1. On an application for habeas corpus, the applicant must establish that they have been detained and that there is a legitimate ground upon which to question the legality of that detention: *Khela v. Mission Institution*, 2014 SCC 24 at para. 30. If established, the onus shifts to the respondent to show that the detention was lawful: *Khela* at para. 30.
- [16] If an incarcerated person is already detained, habeas corpus can be employed to challenge changes to the conditions of that detention which result in a "significant reduction" of the inmate's "residual liberty": *R. v. Elliot*, 2022 BCSC 1946 at para. 95. Examples of decisions that result in a loss of residual liberty include: subjecting an inmate to administrative segregation; confining them in a special handling unit; and transferring them to a higher security institution: *Khela* at para. 34. The essential element is that the physical environment of the inmate be altered in such a way so as to offer them less freedom: *Ewanchuk v. Canada*, 2017 ABQB 237 at para. 21.
- [17] Habeas corpus has no application to a decision to deny parole, since such a decision does not result in a change in the conditions of an inmate's detention: *Dixon v. Mountain Institution*, 2017 BCSC 183 at para. 83; *Lord v. Coulter*, 2009 BCCA 62 at para. 5-6. This is exactly what Mr. Wu is seeking: to use habeas corpus as a means to challenge the decision to deny his parole.
- [18] I am satisfied that it is plain and obvious that the Writ cannot be maintained. The denial of parole does not constitute a deprivation of liberty for the purposes of a habeas corpus application (*Dixon* at para. 78), and therefore his application discloses no reasonable cause of action.

Issue 2: Is Mr. Wu's application unnecessary, frivolous, or vexatious, or an abuse of process?

- [19] A pleading is unnecessary or vexatious if it does not go to establishing the plaintiff's cause of action, or if it does not advance any claim known in law, or where it would serve no useful purpose and would be a waste of the court's time and public resources: *Willow v. Chong*, 2013 BCSC 1083 at para. 20.
- [20] In *Lang Michener and Fabian* (1987), 37 D.L.R. (4th) 685 at 691 (Ont. H.C.J.), the Court outlined the following non-exhaustive list of principles to consider when determining whether an action is vexatious, which has been repeatedly endorsed by the BC Courts (see, for example, *Simon v. Canada (Attorney General)*, 2015 BCSC 924 at para. 97, *aff'd* 2016 BCCA 52):

- (a) the bringing of one or more actions to determine an issue which has already been determined by a court of competent jurisdiction constitutes a vexatious proceeding;
 - (b) where it is obvious that an action cannot succeed, or if the action would lead to no possible good, or if no reasonable person can reasonably expect to obtain relief, the action is vexatious;
 - (c) vexatious actions include those brought for an improper purpose, including the harassment and oppression of other parties by multifarious proceedings brought for purposes other than the assertion of legitimate rights;
 - (d) it is a general characteristic of vexatious proceedings that grounds and issues raised tend to be rolled forward into subsequent actions and repeated and supplemented, often with actions brought against the lawyers who have acted for or against the litigant in earlier proceedings;
 - (e) in determining whether proceedings are vexatious, the court must look at the whole history of the matter and not just whether there was originally a good cause of action;
 - (f) the failure of the person instituting the proceedings to pay the costs of unsuccessful proceedings is one factor to be considered in determining whether proceedings are vexatious;
 - (g) the respondent's conduct in persistently taking unsuccessful appeals from judicial decisions can be considered vexatious conduct of legal proceedings.
- [21] The doctrine of abuse of process is a flexible doctrine that allows the court to prevent a claim from proceeding where to do so would violate principles of judicial economy, consistency, finality, and integrity of the administration of justice: *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 at para. 37; *Green v. Proline Management Limited*, 2017 BCSC 1656 at para. 37.
- [22] To challenge a decision by the Parole Board, Mr. Wu must make a claim in the Federal Court, not a habeas corpus application in this Court. Mr. Wu has been told this a number of times in response to similar applications he has brought in other jurisdictions. For example, the Alberta Court of King's Bench stated in *Wu #2* at para. 11:
2. The Court of Queen's Bench of Alberta has no authority to review decisions of the Parole board of Canada by habeas corpus: *Armaly v. Canada*, 2001 ABCA 280; *R v Latham*, 2018 ABCA 267; *R v Latham*, 2018 ABCA 308. Mr. Wu's proposed habeas corpus application is therefore hopeless.
- [23] It is therefore clear that the Writ is vexatious and an abuse of process. Further, the allegations in the Writ are convoluted, prolix, lacking in any jurisprudential support, and rampant with unprovable speculations and inflammatory statements.

- [24] Additionally, I am concerned by the use of judicial resources when Mr. Wu has been judicially told on a number of occasions that the approach he is taking is not permitted by law. He simply disregards the judicial commentary. His continual attempts to use habeas corpus to question the decisions of the Parole Board is an abuse of process.
- [25] Mr. Wu has to understand that bringing the same habeas corpus application in different jurisdictions will not change the outcome. If he wishes to challenge the decisions of the Parole Board he has to do so in the Federal Court.
- [26] I am satisfied that Mr. Wu's habeas corpus application is both vexatious and an abuse of process.

Issue 3: Does this Court have jurisdiction to vary the decisions by the Parole Board and its Appeal Division?

- [27] Mr. Wu's position is that the Federal Court is controlled by the respondent and as a result he will never be granted leave to commence litigation in the Federal Court. He claims he has fresh evidence that the Parole Board, in denying his parole, acted in bad faith. He claims he has no other recourse but to come to this Court to seek justice.
- [28] The Parole Board is a federal board. Under s. 107 of the Corrections and Conditional Release Act, S.C. 1992, c. 20 [CCRA], the Parole Board has the exclusive jurisdiction to grant parole of an offender. This jurisdiction does not rest with the Supreme Court of BC or any other superior courts of Canada. If an appeal is sought of a Parole Board decision, that appeal is made to the Appeal Division pursuant to s. 147 of the CCRA.
- [29] Judicial reviews or declaratory relief relating to decisions by the Appeal Division must be made before the Federal Court pursuant to ss. 18 and 18.1 of the Federal Courts Act, R.S.C. 1985, c. F-7. Mr. Wu understands this but his position is that he is barred from making such applications in the Federal Court or at least that is his perception. The reality is that he is not barred; he simply must first seek leave. He is free to make the leave application and that is the process he must follow.
- [30] I conclude that this Court does not have jurisdiction to review decisions by the Parole Board or its Appeal Division.

Issue 4: Does this Court have jurisdiction to stay or quash the second-degree murder conviction?

- [31] The Supreme Court of Canada in *May v. Ferndale Institution*, 2005 SCC 82 at para. 36 and *R. v. Sarson*, [1996] 2 SCR 223 at para. 32, made it clear that habeas corpus relief cannot be used to quash a murder conviction. Put differently, an application for habeas corpus cannot be used as a vehicle to appeal the merits of a conviction under the Criminal Code of Canada, R.S.C. 1985, c. C-46 [Code]. That is precisely what Mr. Wu is trying to do here. Further, in *R. v. Wu*, 2001 BCCA 90 [Wu #3], Mr. Wu was told that he could not challenge his conviction by way of habeas corpus but must instead proceed under the appeal provisions found in the Code. Since 2001, Mr. Wu has continuously disregarded that direction.

[32] In effect, Mr. Wu seeks to have this Court do something which is "impossible in law": Wu #2 at para. 11; Wu #1 at paras. 15-16.

Issue 5: Should this Court Declare Mr. Wu a Vexatious Litigant

Legal Principles

[33] Section 18 of the Supreme Court Act empowers the Court to prohibit a person from instituting legal proceedings without prior leave of the Court:

18. If, on application by any person, the court is satisfied that a person has habitually, persistently and without reasonable grounds, instituted vexatious legal proceedings in the Supreme Court or in the Provincial Court against the same or different persons, the court may, after hearing that person or giving him or her an opportunity to be heard, order that a legal proceeding must not, without leave of the court, be instituted by that person in any court.

[34] Section 18 confers a broad jurisdiction on the court to control its own processes. This is a power that must not be used lightly. The court must balance the important values underlying open court access against the need to prevent the abuse of that right: *Semenoff Estate v. Semenoff*, 2017 BCCA 17 at para. 31, citing *S.(M.) v. S.(P.I.)* (1998), 60 B.C.L.R. (3d) 232 (B.C.C.A), leave to SCC ref'd, 27151 (25 November 1999).

[35] The court may consider proceedings before administrative tribunals in determining whether an order under s. 18 is appropriate: *Bajwa v. British Columbia Veterinary Medical Assn.*, 2012 BCSC 878 at para. 211.

[36] As helpfully summarized by Justice Iyer in *Rafique v. AWM-Alliance Real Estate Group Ltd.*, 2019 BCSC 247 at para. 51, citing *Carten v. Carten*, 2015 BCCA 201, key indicators of a vexatious proceeding include:

- a) bringing one or more actions to determine an issue which has already been determined by a court of competent jurisdiction;
- b) it is obvious that the action cannot succeed, would lead to no possible good, or no reasonable person can reasonably expect to obtain relief;
- c) the action is brought for an improper purpose, including the harassment and oppression of other parties by multifarious proceedings brought for purposes other than the assertion of legitimate rights;
- d) the grounds and issues in the first proceeding have been rolled forward into subsequent actions and repeated and supplemented, often with actions brought against the lawyers who have acted for or against the litigant in earlier proceedings;
- e) the person who instituted the proceedings has failed to pay the costs of the unsuccessful proceedings; and

f) the person has persistently taken unsuccessful appeals.

[37] The ultimate question is whether the litigant has taken himself over the line: *Lindsay v. Canada (Attorney General)*, 2005 BCCA 594 at para. 26.

Position of the Respondent

[38] The respondent argues that Mr. Wu is vexatious and in support references the lack of merit in the Writ, his past failed habeas corpus attempts, and that he has been declared vexatious in the federal court and in two other Canadian jurisdictions.

Position of Mr. Wu

[39] Mr. Wu claims that he is left with no choice but to turn to this Court since he is not able to turn to the Federal Court. He claims that the Federal Court would "never ever" allow him to file an application. He claims that this Court is his "last recourse".

Analysis

[40] It is clear that, at least in Alberta and before the Federal Court, Mr. Wu brought multiple habeas corpus applications leading to the declaration that he was vexatious: *Wu #2* at para. 1; *Wu v. Canada*, 2003 FCA 110 at para. 2.

[41] Mr. Wu has brought previous habeas corpus writs in this jurisdiction when he was an inmate at the Kent Institution in Agassiz, BC in June 2000. His application was dismissed on the basis that he had to take his complaints to the Federal Court by way of s. 18 of the FCA: *Wu #3*.

[42] In *Wu #3*, Mr. Wu was told by our Court of Appeal that he could not challenge his murder conviction by way of habeas corpus but must instead proceed under the appeal provisions of the Code. This statement from the Court of Appeal did not deter Mr. Wu. On January 5, 2005, he applied to this Court for an order requiring CSC to transfer him to a penitentiary near Montreal, Québec so that he could apply to the Québec Court of Appeal for leave to appeal his conviction and to adduce fresh evidence. In *Wu v. Canada (Attorney General)*, 2006 BCSC 46, request was denied on the basis that his intended applications had no merit. Justice Joyce referenced the decision of Proulx J.A. (as he then was) in *R. v. Wu*, [1999] Q.J. No. 1416 (Q.C.C.A.):

[2] Essentially, the petitioner argues that this verdict is ill-founded since the murder did not happen in the province of [Québec]. However, this issue could have been raised by the petitioner in first instance, but it was obviously discarded by his plea of guilty. In fact, this is clearly illustrated in some extracts, attached hereto, of the representations made by Crown counsel before sentence (pages 2 to 13), which were never contested in the court below.

- [3] When the matter came for trial, the petitioner changed his plea to guilty on a reduced charge of second degree murder, with the advice of counsel and after having signed a document dated September 11, 1993, which is attached to the present judgment. At that time, the trial judge satisfied himself that the petitioner was fully aware of the consequences of his plea (see pages 5 and following).
- [4] The sentence was rendered on October 5, 1993. On October 8, 1993, the petitioner was admitted to the penitentiary and, in a document produced by the petitioner himself, it is reported that he stated having pleaded guilty essentially to avoid a first degree murder conviction and he even acknowledged that the crime had been committed in Canada.
- [5] When asked by the undersigned at the hearing if he had anything to complain about the two lawyers who represented him in first instance, the one at the time of his plea of guilty and the other for the representations on sentence, the petitioner answered in the negative and specified that he was not raising the issue of competency of his counsel.
- [6] In these circumstances, I fail to see how the interests of justice can be served in granting an extension to appeal more than five years after a judgment rendered on a plea of guilty which was fully understood by the petitioner and in respect of which he has no valid complaint. After all, if an issue was to be raised as to where the murder occurred, the petitioner was the only person who could then do so. For the reasons stated above it seems obvious to me that the petitioner clearly chose not to do so.

[Bold emphasis in original.]

- [43] Since then Mr. Wu has conducted numerous unsuccessful applications as summarized by Justice Henderson in Wu #1:
- [20] Canadian courts have concluded that Mr. Wu conducts hopeless moot proceedings (e.g. R v Wu, 1999 CanLII 13350 (QCCA)), has previously sought to undo his conviction via habeas corpus (e.g. R v Wu, 2001 BCCA 90), and conducted collateral attack proceedings (e.g. Wu v Attorney General of Canada, 2006 BCSC 46). The Manitoba Court of Appeal has indicated Mr. Wu is a suitable candidate for court access restrictions by what is sometimes called a "vexatious litigant order", given Mr. Wu's repeated abusive habeas corpus applications: Wu v Attorney General of Canada, 2008 MBCA 132 at para 3. Mr. Wu is already subject to court access restrictions in [Québec] (Wu v Her Majesty the Queen in right of Canada (17 June 1999), Docket 540-36-000154-996 (QCCS)) and the Federal Courts (Wu v Canada, 2003 FCA 110). Existing court access restrictions in a different jurisdiction is a prima facie basis for Mr. Wu to be subject to court access restrictions in the Alberta Court of Queen's Bench: Unrau v National Dental Examining Board, 2019 ABQB 283 at para 582-586, adopting Fabrikant v Canada, 2018 FCA 171 at paras 14-15.
- [44] Justice Henderson concludes at para. 21:

Mr. Wu's has a well-established record of abuse of habeas corpus proceedings. Mr. Wu's continuing abuse of this Court cannot be mediated by case management, since Mr. Wu repeatedly and persistently makes entirely abusive habeas corpus applications. I, therefore, request that Canada file a Judicature Act, ss. 23-23.1 application in relation to Mr. Wu by October 29, 2021.

- [45] Mr. Wu fits squarely within most of the key indicators of a vexatious litigant, in his incessant pursuit of unsuccessful habeas corpus writs and applications. Mr. Wu has been told by multiple courts that he cannot bring a habeas corpus application to challenge his second-degree murder conviction nor to challenge the decisions of the Parole Board.
- [46] He has made serious allegations of misconduct against the respondent, the Parole Board, and the CSC without any support for such allegations. Many other of his allegations can only be described as bizarre, delusional, and challenging to understand.
- [47] He continues to seek the same relief where it is obvious that the relief being sought cannot be granted by this Court.
- [48] He has persistently initiated unsuccessful appeals.
- [49] I am persuaded that a vexatious order should be made. If I do not, there is a high likelihood that Mr. Wu will persist in bringing meritless applications at a significant cost to the respondent.
- [50] The respondent seeks a condition on the order that any leave application filed by Mr. Wu be restricted to three pages or less, and accompanied by only one affidavit, not to exceed five pages in length. In support of these conditions, the respondent relies on *Hokhold v. Canada (Attorney General)*, 2019 BCSC 1106 at para. 106. I would not yet put Mr. Wu in the same category as Dr. Hokhold, who submitted a 25-page long notice of civil claim, along with a 65-page complaint to the Canada Judicial Council, a 44-page letter to Chief Justice Hinkson, and a proposed amended notice of civil claim 40-pages in length. In the Court of Appeal, Dr. Hokhold filed an affidavit consisting of 278 pages in length. As the court noted at para. 104: "This pressure is multiplied due to his practice of filing large volumes of materials, much of which is often irrelevant to the issue".
- [51] While I agree that much of the 23-page single spaced Writ is irrelevant, I am not persuaded that Mr. Wu has yet crossed the line, as Dr. Hokhold had, and needs to be restricted in the length of his leave applications. This further restriction can be revisited in the future, if needed.
- [52] I further accept the respondent's position that an award of costs should be made to discourage Mr. Wu from continuing down the path of hopeless and meritless applications. In the circumstances, a lump sum award of costs in the amount of \$440 is just and reasonable.

Conclusion

[53] The following orders are made:

- a) The Notice of Special Motion for a Writ of Habeas Corpus filed by Mr. Wu on August 30, 2022 is struck.
- b) Pursuant to s. 18 of the Supreme Court Act, Mr. Wu is prohibited from commencing any legal proceedings in the Supreme Court of BC, without leave of the Court.
- c) The respondent is entitled to lump sum costs set at \$440, payable by Mr. Wu to the Receiver General for the Attorney General of Canada.
- d) The signature of Mr. Wu on the form of the order is dispensed with.

[54] I reiterate that Mr. Wu's desire to have the Parole Board's decision judicially reviewed is understandable. Mr. Wu has the right to apply for judicial review of the decision. However, in this case, Mr. Wu has chosen the wrong forum for his application. His application must be made in the Federal Court, as that is the only Court which has jurisdiction to review decisions made pursuant to the CCRA.

[55] However, as Mr. Wu has been declared a vexatious litigant by the Federal Court, there is an additional step he must take prior to bringing his application for judicial review. He must apply for leave. The Federal Court of Appeal has provided comments on what a vexatious litigant must show for leave to be approved: *Bernard v. Professional Institute of the Public Service of Canada*, 2020 FCA 211 at paras. 9-13. Mr. Wu may find these comments particularly instructive.

[56] Specifically, Mr. Wu must assure the Court that the purpose of his application is to vindicate a bona fide claim, not pursue a personal vendetta: *Bernard* at para. 9. In this regard, it may be helpful for Mr. Wu to remove from his application any inflammatory language. His application should focus on why he believes the Appeal Division erred and should avoid levying unsupported allegations against the Attorney General.

[57] Additionally, Mr. Wu should avoid submitting an application that is unnecessarily lengthy: *Canada v. Olumide*, 2017 FCA 42 at para. 31. Brevity and clarity are essential.

[58] The key for Mr. Wu will be showing that he is willing to pursue his claim in an acceptable manner, consistent with the Rules, orders and directions of the Federal Court: *Bernard* at paras. 10-11. As a starting place, Mr. Wu must bring his application in the correct forum, which in this case is not the Supreme Court of BC.

"Forth J."

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