IN THE HIGH COURT OF NEW ZEALAND AUCKLAND REGISTRY

I TE KŌTI MATUA O AOTEAROA TĀMAKI MAKAURAU ROHE

CIV-2018-404-979 [2018] NZHC 1183

BETWEEN RAZDAN RAFIQ

Applicant

AND THE HIGH COURT AT AUCKLAND

First Respondent

THE CHIEF EXECUTIVE OFFICER OF

THE MINISTRY OF SOCIAL

DEVELOPMENT Second Respondent

Hearing: On the papers

Appearances: R Rafiq in person

Judgment: 24 May 2018

JUDGMENT OF LANG J [on application by vexatious litigant for leave to commence proceeding]

This judgment was delivered by me on 24 May 2018 at 2.30 pm, pursuant to Rule 11.5 of the High Court Rules.

Registrar/Deputy Registrar

Date.....

- [1] Mr Rafiq seeks leave to commence a proceeding against the Registrar of the High Court at Auckland and the Chief Executive of the Ministry of Social Development. He requires leave because he was declared a vexatious litigant on 27 May 2015.¹
- [2] Mr Rafiq must satisfy the Court that there is a "prima facie ground for the proceeding" and that the claim is not an abuse of the process of the Court.² A "prima facie case" is a "serious, as opposed to a speculative case".³
- [3] The claim against the Registrar relates to an alleged failure to process a criminal appeal Mr Rafiq alleges he filed on 12 October 2017. The claim against the Chief Executive relates to allegedly defamatory comments made by staff of the Ministry of Social Development about a person other than Mr Rafiq.
- [4] A cursory consideration of the statement of claim reveals that it is in the same vein as numerous other proceedings filed by Mr Rafiq prior to being declared a vexatious litigant. It also mirrors in large part at least eight other proceedings Mr Rafiq has unsuccessfully sought to institute against Government bodies since being declared a vexatious litigant. In addition, I have now obtained the file relating to the criminal appeal Mr Rafiq filed on 16 October 2017. That file contains a Minute dated 17 October 2017 in which Downs J dismissed the appeal on the basis that it was without jurisdiction.
- [5] The proposed proceeding is therefore plainly an abuse of process, and this is also reflected in the relief Mr Rafiq seeks against the Registrar:

Relief Sought

- 4. Wherefore the plaintiff claims:
 - 4.1 An order for exemplary damages in the sum of

Attorney-General v Rafig [2015] NZHC 1153.

Judicature Act 1908, s 88B(2); since repealed by the Senior Courts Act 2016, however the threshold to grant leave under the Judicature Act has continued to be applied after its repeal – see *Rafiq v Commissioner of New Zealand Police* [2017] NZHC 2739.

³ Rafiq v Attorney-General [2017] NZHC 1852 at [4].

[6] The claim against the Chief Executive is similarly an abuse of process because Mr Rafiq has no ability to sue in defamation for remarks defamatory of a person other than himself. The prayer for relief in this cause of action is also in similar terms to that relating to the claim against the Registrar but additionally seeks aggravated damages and/or general damages in similar amounts.

[7] Neither claim can be permitted to proceed.

Result

[8] Leave to commence the proceeding is refused.

Lang J

Copy to: R Rafiq