

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20230615**

**Docket: A-265-22**

**Citation: 2023 FCA 140**

**Present: LASKIN J.A.**

**BETWEEN:**

**JOHN TURMEL**

**Appellant**

**and**

**HIS MAJESTY THE KING**

**Respondent**

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on June 15, 2023.

**REASONS FOR ORDER BY:**

**LASKIN J.A.**

**Federal Court of Appeal**



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**REASONS FOR ORDER**

**LASKIN J.A.**

[1] On November 9, 2022, the Federal Court (2022 FC 1526, Fothergill J.) made an order under section 40 of the *Federal Courts Act*, R.S.C. 1985, c. F-7, declaring the appellant, John Turmel, to be a vexatious litigant. The order also, among other things, prohibits Mr. Turmel from instituting new proceedings in the Federal Court, continuing any proceedings previously instituted by him in the Federal Court, except with leave of the Court, and preparing, distributing

or disseminating court documents, including template documents, for use by others in Federal Court proceedings.

[2] The Attorney General of Canada sought to have the order framed so as to apply equally to proceedings in this Court. The Federal Court declined that request, on the basis that the case law left the motion judge “in some doubt” whether the jurisdiction of the Federal Court extends to matters before this Court (2022 FC 1526 at paras. 52-54). In doing so, the motion judge suggested that if the order he was granting was appealed, this Court might wish “to provide further guidance on this jurisdictional question”.

[3] Mr. Turmel has appealed to this Court from the order of the Federal Court. I understand that the appeal is ready to be scheduled for hearing.

[4] The Attorney General now moves in this Court for the same relief in relation to proceedings in this Court as he obtained in relation to Federal Court proceedings in the order under appeal. In compliance with the requirement in subsection 40(2) of the *Federal Courts Act*, the Attorney General, through the then Acting Assistant Attorney General, has consented in writing to the bringing of the motion. The Attorney General has filed a substantial record, describing Mr. Turmel’s conduct that has led to the bringing of the application. Mr. Turmel has not filed a response to the motion.

[5] For the reasons set out below, the order sought is granted.

[6] Subsection 40(1) of the *Federal Courts Act* provides in the following terms for the making of a vexatious litigant order:

**40 (1)** If the Federal Court of Appeal or the Federal Court is satisfied, on application, that a person has persistently instituted vexatious proceedings or has conducted a proceeding in a vexatious manner, it may order that no further proceedings be instituted by the person in that court or that a proceeding previously instituted by the person in that court not be continued, except by leave of that court.

**40 (1)** La Cour d'appel fédérale ou la Cour fédérale, selon le cas, peut, si elle est convaincue par suite d'une requête qu'une personne a de façon persistante introduit des instances vexatoires devant elle ou y a agi de façon vexatoire au cours d'une instance, lui interdire d'engager d'autres instances devant elle ou de continuer devant elle une instance déjà engagée, sauf avec son autorisation.

[7] As this Court recently stated in *Feeney v. Canada*, 2022 FCA 190 at para. 20 (some internal citations omitted),

vexatious litigant orders may be based on various, non-exhaustive, criteria [...]. In *Olumide*, Stratas J.A. referred to these criteria as “hallmarks of vexatious litigants” or “badges of vexatiousness” [...]. These “hallmarks” include the following (*Olumide v. Canada*, 2016 FC 1106 at para. 10):

- a) being admonished by various courts for engaging in vexatious and abusive behaviour;
- b) instituting frivolous proceedings (including motions, applications, actions, and appeals);
- c) making scandalous and unsupported allegations against opposing parties or the Court;
- d) re-litigating issues which have been already been decided against the vexatious litigant;
- e) bringing unsuccessful appeals of interlocutory and final decisions as a matter of course;

f) ignoring court orders and court rules; and

g) refusing to pay outstanding costs awards against the vexatious litigant.

[8] The record on this motion shows that Mr. Turmel displays several of the hallmarks of a vexatious litigant. Among other things,

he has personally brought numerous meritless proceedings, almost all of which have been dismissed for reasons that include the absence of a reasonable cause of action, that they were scandalous, frivolous, and vexatious or an abuse of process;

he appeals virtually all of his litigation losses, and regularly seeks leave to appeal to the Supreme Court of Canada from the dismissal of his appeals, often seeking reconsideration when his leave to appeal applications fail;

he regularly attempts to re-litigate previously decided issues;

he uses pleadings to make unsubstantiated and intemperate remarks about other parties and the judges who dismiss his proceedings;

he disregards court orders, rules and timelines; and

he has numerous unpaid costs orders.

[9] In addition to bringing his own proceedings, he has, beginning in 2014, developed litigation “kits” consisting of template court materials challenging among other things the constitutionality of aspects of Canada’s medical cannabis regulatory regime and COVID-19 mitigation measures, and distributed them for others to use in instituting proceedings in the Federal Courts. Individuals have filed or attempted to file hundreds of proceedings using these kits, including 40 appeals to this Court. He has described them as part of a deliberate strategy to overwhelm the courts and the Crown. He describes himself as a “guerilla lawyer”, uses military

language in describing his litigation tactics and encourages his kit users to file claims and “get in on the kill”.

[10] The evidence in the record overwhelmingly shows that a vexatious litigant order is called for to govern Mr. Turmel’s access to this Court. It also shows that to achieve its purposes, the order must extend beyond Mr. Turmel himself to include his assistance and encouragement to others to bring proceedings in this Court.

[11] I will, accordingly, make an order, substantially in the terms sought by the Attorney General:

- (a) that no further proceedings may be instituted, and that any proceedings previously instituted, other than the present appeal, may not be continued, by John Turmel in the Federal Court of Appeal, except with leave of the Court;
- (b) that any application by John Turmel for leave to institute or continue proceedings in the Federal Court of Appeal must, in addition to satisfying the criteria in s. 40(4) of the *Federal Courts Act*, demonstrate that all outstanding costs awards against John Turmel in the Federal Court of Appeal have been paid in full;
- (c) prohibiting John Turmel from preparing, distributing or in any way disseminating court documents, including template documents, for use by others in proceedings before the Federal Court of Appeal;

- (d) prohibiting John Turmel from assisting others with their proceedings in the Federal Court of Appeal, including by filing materials or by purporting to represent or communicate with the Court on their behalf;
- (e) that no further proceedings may be instituted in the Federal Court of Appeal using originating documents, including template documents, that are in any way prepared, distributed or disseminated by John Turmel, except with leave of the Court;
- (f) that John Turmel pay to the Attorney General costs of this motion fixed at \$500.

[12] Since the question whether a vexatious litigant order made by the Federal Court can extend to proceedings in the Federal Court of Appeal is not a live issue in this proceeding, I will offer only the following brief comment on the question. Since the coming into force of the *Courts Administration Act*, S.C. 2002, c. 8, the Federal Court of Appeal and the Federal Court are two separate and distinct superior courts: see *Federal Courts Act*, sections 3 and 4. It would be unusual if an order of one court could, absent express statutory language (such as language providing for appeals from one court to the other) bind the other. Subsection 40(1) of the *Federal Courts Act* appears to have been drafted, using expressions such as “that court” and “devant elle”, with a view to limiting the effect of a vexatious proceedings order to proceedings in the court that made it.

“J.B. Laskin”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:**

A-265-22

**STYLE OF CAUSE:**

JOHN TURMEL v. HIS MAJESTY  
THE KING

**MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES**

**REASONS FOR ORDER BY:**

LASKIN J.A.

**DATED:**

JUNE 15, 2023

**WRITTEN REPRESENTATIONS BY:**

John Bricker  
Addison Leigh

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Shalene Curtis-Micallef  
Deputy Attorney General of Canada

FOR THE RESPONDENT