

CITATION: Edusei v. Philips, 2025 ONSC 4723
OSHAWA DIVISIONAL COURT FILE NO.: DC-25-00001654-JR
DATE: 20250815

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: KOBİ (KOBINA) EDUSEI, Applicant

AND:

SGT. FIONA PHILIPS, DRPS OFC. WILLIAM WOODSTOCK, DRPS DET.
MARK DET. MARK PHILIPS, DRPS DURHAM REGIONAL POLICE
SERVICE (DRPS), LAW ENFORCEMENT COMPLAINTS AGENCY (LECA),
Respondents

BEFORE: The Hon. Mr. Justice R.E. Charney

COUNSEL: Kobi (Kobina) Edusei, Self-Represented, Applicant

Sean Murtha, Counsel for the Respondents, Sgt. Fiona Philips, DRPS Ofc.
William Woodstock, DRPS Det. Mark Pillman, DRPS Durham Regional Police
Service (DRPS)

Pamela Stephenson Welch, Counsel for the Respondent, Law Enforcement
Complaints Agency

Liam Dart, Counsel for the Attorney General of Ontario

HEARD: In Writing

ENDORSEMENT

[1] The Registrar’s Office referred this motion to me pursuant to rule 2.1.01(7) of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194, following receipt of a written request from lawyers for the Respondents under rule 2.1.01(6).

[2] On July 3, 2025, I directed the Registrar to give notice to the Applicant that the Court was considering making an order dismissing his application under rule 2.1.01. The Applicant was invited to make written submissions explaining why the Application should not be dismissed.

[3] My Endorsement of July 3 2025 stated:

The Notice of Application for Judicial Review seeks “compensatory damages” and “punitive damages” in an unspecified amount. Damages are not an available remedy in an Application for Judicial Review: see s. 2(1)

of the *Judicial Review Procedure Act* and *Ling v. Justice of the Peace Review Council*, 2021 ONSC 1182, at para. 17:

The Divisional Court does not have jurisdiction to award damages in the context of an application for judicial review. The orders that the Divisional Court can make on an application for judicial review are circumscribed by section 2 of the *Judicial Review Procedure Act*, R.S.O. 1990, c. J.1.

The Notice of Application for Judicial Review appears on its face to be outside the jurisdiction of the Divisional Court. The Registrar is directed to send notice to the Applicant in Form 2.1A to provide the Applicant with one opportunity to explain why the application should not be dismissed in accordance with the process set out in Rule 2.1.01(3).

- [4] The Applicant provided his response on July 14, 2025. He takes the position that the Application is not frivolous nor vexatious nor an abuse of process.
- [5] While it is unclear from his Notice of Application, he appears to make a complaint about the conduct of the named members of the Durham Regional Police Services Board and decisions of the Law Enforcement Complaints Agency. His Notice of Application states:
- If not for the actions of every party mentioned, I would have not likely have been arrested, charged with 8 counts, faced 6 months in jail, been removed from my residence at that time, had a protective order placed against and had my life turned upside down. This despite all the evidence that my purpose was to seek justice, and all the evidentiary matter that would support either dismissed, ignored and/or failed to be reported.
- [6] The Applicant’s response to the Rule 2.1.01 Notice does not address the jurisdictional issue raised in the Notice.
- [7] The Notice of Application does not provide any dates, and it is not possible to determine which specific incidents he is referring to. He states that neither the DRPS nor the LECA “will provide justice and accountability for me after my initial complaint and appeal of the initial complaint’s decision”, although he does not indicate which decisions he is referencing.
- [8] The Applicant seeks “compensatory damages” and “punitive damages” but does not specify the amount sought.

Procedural History

- [9] This is the Applicant’s second attempt to bring this proceeding. The Applicant had previously brought an action against the same parties named as Respondents in this Application. The Defendants in that action requested that the action be dismissed under Rule 2.1.01(1) of the Rules of Civil Procedure.

- [10] That Rule 2.1.01 proceeding was considered by Justice Bale on June 3, 2025. In dismissing the action, Justice Bale stated:

The Statement of Claim does not include a claim for relief. The first paragraph of the form has been left blank. In the body of the Statement of Claim, the plaintiff makes a series of complaints about the conduct of the DRPS and what he sees as a failure of the Law Enforcement Complaints Agency to properly investigate those complaints. The remedy he is seeking is, however, unclear.

In Ontario, the procedure for attacking the decisions of public administrative bodies is by way of judicial review under the *Judicial Review Procedure Act*. Under ss. 6 and 7 of that Act, an application for judicial review is to be made by application to the Division Court, and not a proceeding commenced by statement of claim in this court...

If Mr. Edusei wishes to pursue his complaints, he must do so by application to the Divisional Court under the *Judicial Review Procedure Act*. The present action is therefore dismissed as against all defendants.

- [11] While Justice Bale was trying to assist the Plaintiff, it was not clear from the Statement of Claim that was before Justice Bale that the Plaintiff was seeking damages from the Defendants.

Rule 2.1

- [12] Rule 2.1.01 permits the court to stay or dismiss a proceeding if the proceeding appears on its face to be frivolous or vexatious or otherwise an abuse of process of the court. In *Gao v. Ontario (Workplace Safety and Insurance Board)*, 2014 ONSC 6100, at para. 9, Myers J. explained:

Rule 2.1 is not meant to apply to close calls. It is not a short form of summary judgment. But that does not mean that it is not to be robustly interpreted and applied. Where a proceeding appears on its face to meet the standards of frivolous, vexatious or an abuse of process, the court should be prepared to rigorously enforce the rule to nip the proceeding in the bud. Rigorous enforcement of this rule will not only protect respondents from incurring unrecoverable costs, but should positively contribute to access to justice by freeing up judicial and administrative resources that are so acutely needed to implement the “culture shift” mandated by the Supreme Court of Canada. The new rule tailors appropriate procedural fairness for the category of cases involved and is an example of early resolution of civil cases that is very much in line with the goals set out in *Hryniak*.

- [13] See also: *Scaduto v. Law Society of Upper Canada*, 2015 ONCA 733, at paras. 8 -9.

[14] In *Wang v. Canada*, 2025 ONSC 4261, at paras. 5-7 (footnotes omitted), Centa J. stated:

A frivolous proceeding lacks a legal basis or legal merit or has been brought without reasonable grounds. A frivolous proceeding is one that is readily recognizable as devoid of merit, as one having little prospect of success. A frivolous action is one that will necessarily or inevitably fail.

A vexatious application is one taken to annoy or embarrass the opposite party or is conducted in a vexatious manner.

The court is not to use rule 2.1.01 for close calls. However, neither the opposing parties nor the court should be required to devote scarce resources to proceedings that are clearly frivolous. Allowing such proceedings to occupy space on the court docket takes time away from other, more meritorious cases. There is simply no benefit to allowing clearly frivolous proceedings to continue.

Analysis

[15] In *Ling v. Justice of the Peace Review Council*, 2021 ONSC 1182, Favreau J. (as she then was), considered an Application for Judicial Review under rule 2.1.01. The Notice of Application sought to review the decision of the Justice of the Peace Review Council (the Council), and sought “general/aggravated/punitive damages” against the Council. Favreau J. dismissed the Application to the extent that it sought damages. She stated, at para. 17:

However, there is one fundamental deficiency in Mr. Ling’s application for judicial review. The Divisional Court does not have jurisdiction to award damages in the context of an application for judicial review. The orders that the Divisional Court can make on an application for judicial review are circumscribed by section 2 of the *Judicial Review Procedure Act*, R.S.O. 1990, c. J.1. The Divisional Court is a statutory court. The Court’s jurisdiction is limited to those matters prescribed by statute ... If this application for judicial review goes forward and Mr. Ling is successful, this court will not have jurisdiction to award damages but will be limited to the relief available in section 2 of the *Judicial Review Procedure Act*.

[16] On that basis, Favreau J. dismissed the claim for damages under rule 2.1.01, but permitted the balance of the Application for Judicial Review to proceed if Mr. Ling amended the Notice of Application to remove the claim for damages.

[17] As I understand her decision, any attempt to bring a claim in a court that has no jurisdiction to grant the relief sought qualifies as an abuse of process, even if the claim is not otherwise frivolous or vexatious.

[18] In the present case, the only relief sought by the Applicant is damages. He does not identify the decision he seeks to review, or seek any relief available in s. 2 of the *Judicial Review*

Procedure Act (an order in the nature of *mandamus*, prohibition or *certiorari* or a declaration in relation to the exercise of a statutory power). The Divisional Court does not have jurisdiction to grant the only relief sought by the Applicant.

[19] As such, the Application is dismissed under Rule 2.1.01 as an abuse of process. There will be no order as to costs.

Justice R.E. Charney

Date: August 15, 2025