May 5, 2023

Masood Masjoody

Court of Appeal for British Columbia
400-800 Smithe St Vancouver,
BC, V6Z2C5

The Division of the Court of Appeal
RE: CA48922, *Masjoody v. Simon Fraser University*
Response to the Division's Memorandum of April 27, 2023

1- The aforementioned appeal is from a decision of an adjudicator of the Supreme Court of British Columbia, called **Shelley Colleen Fitzpatrick** ("Fitzpatrick"). Fitzpatrick appears to have been extrajudicially tasked with abusing her public position by siding with the enablers of Islamist terrorists and joining forces with them—by way of her egregiously unfair conduct from the bench—in taking revenge on the justice-seeking plaintiff/appellant who exposed the collaboration between an Islamic terrorist regime and a wealthy and politically powerful public institution in BC. I, the appellant, seek that the order of Fitzpatrick be set aside that made this blatantly biased judge be seized of the matter in the court below. This is sought due to a reasonable apprehension of Fitzpatrick's bias, upon which establishment the Court should inevitably declare that Fitzpatrick has not had jurisdiction to determine **any matter** regarding the appellant, Masood Masjoody, and, consequently, any such matter ruled on by Fitzpatrick should be remitted to the court below for a hearing before a new adjudicator of the court below, according to clear binding rulings of the Supreme Court of Canada.

2- The action in the court below arose from the reaction of Simon Fraser University ("SFU") to a report authored by the appellant about agents of the regime of the Islamic Republic of Iran (the "Regime") who were supported and protected by the SFU administration and are tied to the ballistic missile program of the Regime, the Islamic Revolutionary Guard Corps (the "IRGC"), and the Regime's leaders, Ali Khamenei and Ebrahim Raisi. SFU launched a widespread retaliatory campaign, due to which the plaintiff/appellant took legal action against the respondents.

3- SFU reacted to the appellant's report by completely diverting the issue and not only withheld the report from the intelligence community but blatantly launched vengeful campaigns against the whistleblower. In April 2020, I commenced legal action against the respondents.

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3- SFU reacted to the appellant's report by completely diverting the issue and not only withheld the report from the intelligence community but blatantly launched vengeful campaigns against the whistleblower. In April 2020, I commenced legal action against the respondents.

From that point on, collusion between SFU and the courts and a set of severe misconducts by public servants in the justice system emerged which were apparently aimed at covering up for terrorists and their enablers; and continue to be indicative of the extensive interference of the Regime in Canada ranging from academia through deep into the justice system.

4- The Division is saying that the appeal has been referred to it by the Court's registrar Tim Outerbridge ("Outerbridge") for a summary determination under s. 21 of the Act. The Divison has refrained from specifying the issues, if any, it considers as legitimate grounds for Outerbridge's referral.

5- In my letter of April 20, 2023, to the Division, I enumerated several issues concerning a memorandum of the Court dated April 18, 2023, and asked that clarifications and corrections be made by the Division. The issues persist as none of the required corrections and clarifications have been done.

6- I emphasize the conclusion of my letter of April 25, 2023, that "I need the required corrections and clarifications to make informed submissions to the Division; and I want to appear before the Division for an in-person and open-to-public hearing regarding whatever matter/matters that are presumably before the Division."

7- it is inappropriate for the Division to engage in the summary determination of the matter, as any such engagement should pend the hearing and determination of the appellant's motion to have the registrar recused from this appeal and set aside any of the decisions he has made so far in this appeal, including the referral for summary determination.

Overview of the biased conduct of Fitzpatrick

8- The blatantly biased judge, Fitzpatrick, appears to have been abusing her public office to protect enablers of the terrorist regime of the Islamic Republic (**Order Establishing a List of Foreign State Supporters of Terrorism SOR/2012-170**). Her intent and—given her egregiously disgraceful conduct— presumed benefits can explain her shockingly biased conduct, which should embarrass every decent person within the justice system.

9- Regardless of Fitzpatrick's intent and benefits, the bias of this judge and her departure from a fair administration of justice are both undeniable and indefensible. Hence, in case a judicial activist has been activated to the rescue of Fitzpatrick and Fitzpatrick's apparent favourites, he or she will almost certainly choose to turn a blind eye to Fitzpatrick's conduct. On the other hand, even infinitesimally decent judges (i.e., those with above zero care for the integrity of the justice system and fairness) will take a completely different approach.

10- **On the one hand**, Fitzpatrick ruled in favour of the court below's "lack of jurisdiction" to determine the allegations against a wealthy and politically powerful public body that supported and protected the agents of the Islamic Republic and, instead, viciously conspired against the whistleblower. Fitzpatrick, therefore, blocked the plaintiff's access to the examination of witnesses and the discovery of documents, which documents were

properly identified and demanded by the plaintiff several months ahead of the defendant's motion by which they asked that the court below declare a lack of jurisdiction and also dismiss the plaintiff's claim because of the plaintiff's **"difficulty" with "the left-wing politics" and the "secret agents of the Islamic Republic."**

11- **On the other hand**, the same Fitzpatrick– whose own ruling would have required her to shut her mouth on the allegations made against her apparent favourites– overtly engaged in blatant lies, fabrications, and manifestly false "speculations" about the plaintiff's pleadings and documents. Moreover, Fitzpatrick repeatedly mocked and expressed her disbelief in the plaintiff's claims against her apparent favourites– the exact same claims she said not to have any jurisdiction to determine. Fitzpatrick's conduct amounted to nothing shy of abuse of position and betrayal of the oath of office of a federally appointed judge.

12- Indeed, as soon as the low-level and incoherent essay authored by Fitzpatrick (ironically entitled her "reasons" for judgment) was published, Fitzpatrick's blatantly biased wording against the appellant paved the way for other supporters, enablers, and apologists of the Islamic Republic to assassinate the appellant's character. As a result, new defamers emerged who doubled down on Fitzpatrick's shockingly biased wording and disgraceful verbal attack against a justice-seeking plaintiff. Of those defamers are defendants in another action who recently claimed in open court to have no justifying document for their defamatory publications but Fitzpatrick's baseless and biased words that are the subject of this very appeal (see, e.g., para. 27 in *Masjoody v Burnaby Beacon,* 2023 BCSC 528).

13- As seemed to be required, the appellant made a chambers application for an extension of time to bring this appeal which was filed alongside the Notice of Appeal on March 8, 2023. Presumably scared of the transparency of an open-court hearing, the Registry declared on March 17, the day scheduled for the hearing of the application, that this chambers application was "adjourned" but in a Mafiaesque manner refrained from providing the identity of the judge, if any, who ordered the adjournment.

14- The Court has refrained from providing the arguments, if any, in favour of the referral for a summary determination nor has it provided the appellant with the specificity of the issues, if any, it is considering regarding this appeal. Due to the Court's lack of proper response to the appellant's letters of:

a. March 13, 2023;
b. March 20, 2023;
c. April 17, 2023;
d. April 20, 2023; and
e. April 25, 2023,

the Court has effectively failed to dispense its core duty in general and, in particular, under s. 21(3) of the Act, to provide the appellant with an opportunity to be heard. The making of these submissions by no means should be taken as acknowledging otherwise.

15- This Court has held regarding referrals under s. 21 that "a referral may be made where there is an apparent defect in the appeal."

Yang v. Shi, 2022 BCCA 317, at para. 24

16- Hence, the question is what can even remotely constitute an **apparent defect** that the Division cannot even express, formulate, or, describe.

The Binding Position of the Supreme Court of Canada regarding a Reasonable Apprehension of Bias

17- The Court of Appeal for British Columbia, citing the decision of the Supreme Court of Canada in *R. v. Curragh Inc.*, [1997] 1 S.C.R. 537 at paras. 6-7, has recognized that a plaintiff's "allegations of bias or apprehension of bias" following a dismissal application "can form a ground of appeal", adding that:

> …If she is not satisfied with the decision in the Dismissal Application, she can appeal and her allegations of bias or apprehension of bias can form a ground of appeal. … A decision reached and orders made in the course of a hearing that is found by a court of appeal to be unfair as a result of a reasonable apprehension of bias are void and unenforceable. If the court determines that there is a reasonable apprehension of bias, preservation of the integrity of the justice system will generally require the granting of a new trial or hearing…
>
> *Skyllar v. The University of British Columbia*, 2022 BCCA 138 at para 38

18- This accords with the opinion of the Supreme Court of Canada in *R. v. Curragh Inc.*:

> The properly drawn conclusion that there is a reasonable apprehension of bias will ordinarily lead inexorably to the decision that a new trial must be held. In circumstances where reasonable apprehension of bias is demonstrated the trial judge has no further jurisdiction in the proceedings and there is no alternative to a new trial.
>
> …[I]t is impossible to have a fair hearing or to have procedural fairness if a reasonable apprehension of bias has been established. … The damage created by apprehension of bias cannot be remedied. The hearing, and any subsequent order resulting from it, is void.
>
> …
>
> The right to a trial before an impartial judge is of fundamental importance to our system of justice. Should it be concluded by an appellate court that the words or actions of a trial judge have exhibited bias or demonstrated a reasonable apprehension of bias then a basic right has been breached and the exhibited bias renders the trial unfair. Generally

the decision reached and the orders made in the course of a trial that is found by a court of appeal to be unfair as a result of bias are void and unenforceable.

…
[W]hen a court of appeal determines that the trial judge was biased or demonstrated a reasonable apprehension of bias, that finding retroactively renders all the decisions and orders made during the trial void and without effect. *R. v. Curragh Inc.*, [1997] 1 S.C.R. 537 at paras. 5-8.

19-Similarly, the Supreme Court of Canada holds that:

> As the Court stated in *Cardinal*, "I find it necessary to affirm that the denial of a right to a fair hearing must always render a decision invalid, whether or not it may appear to a reviewing court that the hearing would likely have resulted in a different decision" (p. 661). Similarly, the Court has also recognized that the judgment of a partial adjudicator must be set aside, regardless of the merits of their decision…[emphasis added]
>
> *R. v. Nahanee*, 2022 SCC 37 at para 102

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20-In conclusion, I submit that the Division should refrain from taking any part in an ongoing attempt to obstruct the appellant's fundamental legal rights. As such, the Division should refuse to consider this appeal for a summary determination.

Respectfully,

Masood Masjoody, Ph.D.

May 5, 2023