

**ORIGINAL**

*RCMP*  
*FOR*  
*FIREARMS*

*Q*  
VICTORIA  
MAY 17 2010  
REGISTRY  
Between:

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

Date: 20100423  
Docket: 10-0332  
Registry: Victoria

**James Davidson**

Plaintiff

And:

**Victoria City Of\CPC, Colwood Municipality\RCMP, Langford  
Municipality RCMP, Esquimalt Municipality\Esquimalt Police  
Dept, Sidney Town of\RCMP, Oak Municipality\Oak Bay Police  
Dept, Saanich Municipality\Saanich Police Dept, Telus  
Corporate Security, Hodge\Leland Probation Officer (SG)**

Defendants

Docket: 10-0204  
Registry: Victoria

Between:

**James Davidson**

Plaintiff

And:

**Murray Langdon/CFAX 1070 AM Radio, Premier Gordie Campbell,  
VPD Chief Jamie Graham, Mr. Howie Seagul**

Defendants

Before: The Honourable Mr. Justice McKinnon

## Oral Reasons for Judgment

In Chambers

Appearing on his own behalf:

James Davidson

Counsel for Saanich Municipality, Saanich  
Police Dept:

N. Carfra

Counsel for Murray Langdon, CTV Limited  
dba CFX and VPD Chief Jamie Graham:

N. Carfra (as Agent for Mr. Locke  
and D. McKnight)

Counsel for City of Victoria, VPD, Town of  
Sidney, Sidney RCMP, Esquimalt

N. Carfra (as Agent for D. McKnight)

Municipality, Esquimalt Police Dept, Oak  
Municipality, Oak Bay Police Dept, Police  
Chief Jamie Graham

Counsel for Attorney General of Canada,  
RCMP:

N. Carfra (as Agent for S. Stanton)

Counsel for Langford Municipality RCMP:

N. Carfra (as Agent for C. Becker)

Counsel for Hodge/Leland Probation Officer  
and Premier Gordon Campbell:

R. Meyer

Counsel for Colwood Municipality, RCMP:

S. King

I. Gove

Place and Date of Hearing:

Victoria, B.C.

April 22, 2010

Place and Date of Judgment

Victoria, B.C.

April 23, 2010

[1] **THE COURT:** There are two actions in the Supreme Court commenced by the plaintiff, James Davidson. Multiple defendants are named in both actions.

[2] The applications before me are to strike these claims. The defendants variously rely upon Rules 18, 18A, 19(24) and (29), 44, 51A and 57. One defendant relied upon Rule 15(5)(a)(i), which relief I extended on application to other defendants when it became apparent that the plaintiff was not seeking any relief from those particular defendants.

[3] I will cite the parties as named by the plaintiff in his actions. In Action Number 10-0204 the parties are James Davidson, plaintiff, and Murray Langdon, CFA 1070 Radio, CTV Globe Media, Premiere Gordie Campbell, Victoria Police Chief Jamie Graham, Mr. Howie Seagul of Pagliacci's fame, defendants.

[4] In Action Number 10-0332, the plaintiff Davidson claims against Victoria City of/VPD, Colwood Municipality/RCMP, Langford Municipality/RCMP, Esquimalt Municipality/Esquimalt Police Department, Sidney Town of/RCMP, Oak Bay Municipality/Oak Bay Police Department, Saanich Municipality/Saanich Police Department.

[5] In the former action the plaintiff seeks \$25,000,000, for what appears to be a claim of defamation. In the latter action he seeks \$65,000,000 alleging harassment by various police forces and police chiefs. This latter action also seems to incorporate a repetition of the defamation claims in the first action.

[6] In addition to these claims, Mr. Davidson has also filed 18 actions in Provincial Court. At least seven of these have, by order, been transferred to this court and amalgamated under Action Number 10-0332.

[7] In respect to some defendants, one objection is that they are not vicariously liable for the actions of police officers, which could be the only basis upon which a claim could be made. Indeed, Mr. Davidson conceded that this was his only reason for naming them.

[8] *Rosario v. Canadian (Royal Canadian Mounted Police)* (1998), B.C.J. No. 3068 stands for the proposition that RCMP officers are not municipal constables under the *Police Act* or their agreement to police, and thus the municipality is not vicariously liable for constables who are not municipal constables.

[9] Accordingly, those municipal defendants employing RCMP officers would be entitled to a dismissal of the claims against them under Rule 15(5)(a)(i). Subject to submissions, this would apply to Colwood, Langford and Sidney. It would not apply to Esquimalt or Oak Bay.

[10] I hasten to add that little time was spent on this issue. All defendants concentrated their efforts on other rules, particularly Rule 19.

[11] By way of background, Mr. Davidson suffers from various mental disorders that are well-documented in the material. He has been hospitalized four or five times in the past five years for these disorders, including one involuntary committal under the *Mental Health Act*, and a court remanded psychiatric assessment to determine his fitness to stand trial on threatening counts.

[12] I quote the following comments of a review panel constituted under the *Mental Health Act* dated March 20th, 2008:

James Davidson is a 42 year old male who suffered a head injury in 1994. He has had four psychiatric hospitalizations between November 2004 and August 2007. He has been diagnosed with psychiatric depression, paranoid schizophrenia and a delusional disorder. His current diagnosis is personality changes with paranoid features secondary to a head injury.

Mr. Davidson believes that the police have been targetting him because he filed a complaint against a police officer regarding comments the officers made about him. He continues to be very angry, frustrated and preoccupied with these complaints. Recently the content of emails has become more aggressive and threatening.

Mr. Davidson also believes that the police are responsible for his involvement with the mental health system as a form of retaliation for his complaints. He also believes that the community is now talking about him. Mr. Davidson does not believe he has a psychiatric disorder. He acknowledges that he had a brain injury but believes that the mental health system has used that fact to label him with other mental illnesses. He does not believe that he needs psychiatric medications and he told the panel that he would not take them on a voluntary basis.

Without ongoing treatment he is at substantial risk of serious mental decompensation. As noted, the threats contained in his emails have increased. If decompensated, Mr. Davidson also poses a risk to others.

[13] Those comments, in my respectful view, are as apt today as they were in March of 2008. The material filed is rampant with threatening emails that should give great cause for concern. One example is his request that someone kill the Premier and other named persons on his behalf.

[14] Mr. Davidson claims that he has never acted out these threats, and went on at some length to tell me he does not suffer a mental illness; rather, he is the subject of a vast conspiracy to paint him as mentally ill. It was an uncanny echo of the review panel's observations.

[15] Mr. Davidson's mental instability is the proverbial elephant in the corner, but in this case I am not going to leave the elephant in the corner. His condition must be addressed and a solution found to insure the protection of all involved, including himself.

[16] I can only assume that now that he is not under any supervision. He has followed through on his earlier insistence that he need not take any medication, and thus has been given free rein to his conspiracy theories, including the many claims advanced against these various defendants.

[17] In Action Number 10-0204 he claims, among other things, that Chief Graham:

. . . on air (CFAX 1070 AM Radio) made libel/slander statements on or about November 17th '09, November 22 '09, November 28th '09. James Davidson is a gay, mentally ill, violent Hell's Angel in possession of a 9 mm. handgun who it's felt will enter the Parliament Buildings seeking to harm Premier Gordie Campbell. As a result Mrs. Anna Davidson has been threatened by phone that police seek to search the family home for said 9 mm. handgun. Where does this prejudiced information come from?

[18] The plaintiff failed to provide any particulars of this alleged broadcast, but told me he had either overheard it himself on the radio, or had heard through friends that such comments had been made.

[19] In fact, the defendant Graham provided evidence, which I accept, that established he had never made any on-air comments about Mr. Davidson at any time. He also provided his diary and affidavit evidence as to his whereabouts on the dates alleged, none of which placed him anywhere near the radio station, nor in telephone contact with the station.

[20] In his affidavit Chief Graham swore that he has never met or spoken with the plaintiff, has had no dealings with him, and has never made any comments about him either on or off the air in any public or private manner.

[21] In this same action Mr. Davidson alleges that:

Since 2004 - present day, Premiere Gordie Campbell, Victoria Police, CFX 1070 announcers and others like Mr. Howie Seagul [S-e-a-g-u-l] have used CFX 1070 Radio Station as a platform for publically libel and slander James Davidson and his family with prejudice propaganda.

He then went on in the statement of claim to allege that:

Premier of B.C. - Gordie Campbell on air on or about Monday, December 7, 2009, publically proclaims James Davidson is mentally ill, gay, and a Hell's Angel, et cetera.

Again, when particulars were demanded nothing was forthcoming.

[22] The material filed in support of the Premier establishes that no such comments were ever made. The only comments made by Premier Campbell on CFX at the times alleged referenced an upcoming environmental meeting in Europe.

[23] While Mr. Davidson has cast his net widely in respect to his conspiracy theory, his main target appears to be the Saanich police department and its then Chief Derek Egan. The mental health review panel also noted this fixation.

[24] Counsel for Saanich, Mr. Carfra, has sought the same relief as other counsel in respect to dismissal of the claims, but he has also applied for a declaration that:

The plaintiff be declared to be a person who has habitually, persistently and without reasonable grounds instituted vexatious legal proceedings in the Supreme Court and in the Provincial Court against this defendant and others.

[25] He seeks, as a consequence, an order that a legal proceeding must not, without leave of this court, be instituted by the plaintiff in the Supreme Court or in the Provincial Court, all pursuant to s. 18 of the *Supreme Court Act*.

[26] The allegations contained in the statement of claim in respect of Saanich include breaches of the *Police Act*, the *Charter of Rights and Freedoms*, and a general complaint that Saanich members have conspired to deprive Mr. Davidson of his "rights".

[27] The statements of claim lack pleadings of the material facts necessary to found any of the alleged causes of actions, and no reasonable amendments could possibly cure this failing. Thus, the statements offend Rule 19(24)(a). I also accept that the statements of claim offend Rule 19(24)(b) as being scandalous, frivolous, and vexatious.

[28] There were eight defence counsel appearing on these applications, and all had submissions to make and all prepared voluminous material. The fact that I have not referred to some of these submissions and material should not be interpreted as a sign that I did not accept it or did not consider it.

[29] For instance, claims were advanced that "RCMP" is not a legal entity and thus not a proper party. Other names were also mentioned in the writ but not in the statement of claim. These probably would be entitled to dismissal for reasons of vagueness or simply not proper parties. However, I prefer to ground my decision on other submissions.

[30] In my respectful view, Mr. Davidson's mental illness is the driving force behind his multiple court applications. He has utterly failed to provide any particulars capable of suggesting a legal claim. Simply put, his allegations are false, clearly a product of his imagination.

[31] The defendants are entitled to dismissal of all claims for the reasons given.

[32] Each defendant asks for special or solicitor/client costs. If I was satisfied that Mr. Davidson was competent, then such an order would no doubt be made. I say that because I would not want this case to stand for the proposition that a plaintiff who makes outrageous and totally unfounded claims ought not to be penalized by way of costs.

[33] I accept that Mr. Davidson genuinely believes in his theories and honestly thinks he is conducting a battle on behalf of the "little guy". That, as indicated by the review panel, is how people who suffer from his disabilities think.

[34] In the particular circumstances of this case, I will merely make the order that the defendants are entitled to their costs on the usual scale. Given Mr. Davidson's impecuniosity, I doubt anything will be collected by way of costs.

[35] However, I am satisfied that the provisions of s. 18 of the *Supreme Court Act* have been met, and direct that Mr. Davidson must not, without leave of the court, institute any legal proceedings in any court.

[36] I also direct that the defendants may dispense with the plaintiff's signature when filing orders consequent upon this judgment.

McKinnon J  
McKinnon J. per  
Cawston, J