

CANADA / JUDGMENT

Khorramrooz v. Baradar

2026 ONCA 24

COURT

Court of Appeal for Ontario

DECIDED

15 January 2026

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Khorramrooz v. Baradar Collection Decisions of the Court of Appeal Date 2026-01-15 Neutral citation 2026 ONCA 24 Docket numbers COA-25-CV-1379, COA-25-CV-1450, M56563, M56565, M56571 Judges Paciocco, David M. Subject Family Decision Content COURT OF APPEAL FOR ONTARIO CITATION: Khorramrooz v. Baradar, 2026 ONCA 24 DATE: 20260115 DOCKET: M56571 (COA-25-CV-1379) & M56563, M56565 (COA-25-CV-1450) Paciocco J.A. (Motion Judge) DOCKET: M56571 (COA-25-CV-1379) BETWEEN Solmaz Khorramrooz Applicant (Respondent/Responding Party) and Alireza Baradar Respondent (Appellant/Moving Party) DOCKET: M56563, M56565 (COA-25-CV-1450) AND BETWEEN Solmaz Khorramrooz Applicant (Appellant/Moving Party) and Alireza Baradar Respondent (Respondent/Responding Party) Solmaz Khorramrooz, acting in person Alireza Baradar, acting in person Heard: January 9, 2026 (M56571) and in writing (M56563, M56565) REASONS FOR DECISION

- [1] All the motions which are the subject of this decision relate to a final order in a family law dispute made on September 19, 2025, bearing court file no. FC-19-58003. The trial below adjudicated contested issues between the parties relating to: (a) the divorce, (b) child support, (c) spousal support, (d) section 7 expenses [special or extraordinary expenses under the Child Support Guidelines], (e) equalization, and (f) a restraining order. The material outcome of the trial is that Mr. Baradar owes Ms. Khorramrooz an equalization payment, and Ms. Khorramrooz owes Mr. Baradar a lump sum payment for retroactive child support in addition to monthly support on a going-forward basis.
- [2] Mr. Baradar's appeal of the September 19, 2025 order bears court file no. COA-25-CV-1379. He brought a motion (M56571) pursuant to r. 61.09(4) of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194, seeking a special direction varying the requirements for perfecting his appeal by dispensing with the need to serve and file transcripts from the proceeding below, as required by r. 61.09(3). Ms. Khorramrooz took no position on this motion.

- [3] Ms. Khorramrooz initiated a separate appeal from the same September 19, 2025 order, which bears court file no. COA-25-CV-1450. She brought a separate motion (M56565) in writing in which she seeks similar special directions dispensing with the obligations to: (1) provide a Certificate/Proof of Ordering transcripts required by r. 61.05(5); and (2) serve and file transcripts from the proceeding below required by r. 61.09(3). Mr. Baradar did not oppose this motion.
- [4] Finally, Ms. Khorramrooz brings a distinct motion in writing (M56563) for a discretionary stay pursuant to r. 63.02 of the September 19, 2025 orders related to child support, which directed she pay Mr. Baradar \$734 per month going forward and a lump sum payment for retroactive child support of \$62,466, which was to be deducted from the equalization payment Mr. Baradar owes Ms. Khorramrooz. The child support order was based on imputed income after the trial judge found that Ms. Khorramrooz did not provide sufficient evidence of her disability to justify her inability to work for the previous 13 years. THE MOTIONS TO DISPENSE WITH TRANSCRIPT REQUIREMENTS (M56571, M56565)
- [5] I must dismiss Mr. Baradar's and Ms. Khorramrooz's motions to dispense with the transcript requirements, M56571 and M56565 respectively. It is convenient to address these motions together. Relief from compliance with the rules for perfecting an appeal can be ordered if it is in the interests of justice to do so. It is not in the interests of justice to do so in either motion, since neither appeal could properly be determined without those transcripts. Given the nature of the issues raised, neither appeal could succeed without the transcripts, leaving the appeal hearings pointless.
- [6] In his certificate respecting evidence Mr. Baradar, who wants an exemption from producing any of the transcripts, effectively acknowledges that his appeal requires transcripts relating to the evidence and submissions on specific issues, including the determination of the separation date and the financial issues. He intends to argue in his appeal that the trial judge "breached principles of procedural fairness and natural justice" and made several "misapprehension[s] of material facts that affected the outcome" related to these issues. Given that the separation date and financial issues were the contested issues during the trial, and the appeal engages the fairness of the trial, few if any of the transcripts will not be required.
- [7] In her certificate respecting evidence, Ms. Khorramrooz effectively acknowledges that she requires all the transcripts. Moreover, she intends to argue in her appeal that the support orders resulted from unreasonable and biased findings made by the trial judge contrary to the evidence and his reliance on "unverified and misleading statements" made by Mr. Baradar. The grounds of appeal she brings will also require a complete set of transcripts.
- [8] Both parties claimed severe impecuniosity and asserted that the cost of ordering transcripts – estimated as being between \$3,600 and \$5,000 in this case – would be impossible to pay as it is well beyond their means. Unfortunately, the transcripts are necessary to fairly adjudicate both of their appeals, so it would not be in the interests of justice to dispense of

the requirement to obtain them. I therefore dismiss both Mr. Baradar and Ms. Khorramrooz's motions for special directions varying the perfection requirements. MS. KHORRAMROOZ'S MOTION FOR A STAY (M56563)

- [9] I am also dismissing Ms. Khorramrooz's motion for a stay pending appeal (M56563). Orders for a payment of money are typically automatically stayed pending appeal, but those which relate to support orders are explicitly excluded from the automatic stay rule: r. 63.01(1); see *Abu-Saud v. Abu-Saud*, 2020 ONCA 314, 48 R.F.L. (8th) 323, at para. 17. In order to exercise my discretion to exceptionally stay the child support orders pursuant to r. 63.02(1), Ms. Khorramrooz must persuade me that it is in the interests of justice to do so. I must base my decision on relevant factors, including the following interrelated but central considerations: (1) a preliminary assessment must be made of the merits of the case to ensure that there is a serious question to be tried; (2) it must be determined whether the appellant would suffer irreparable harm if the motion were refused; and (3) an assessment of the balance of convenience must be conducted to determine which of the parties would suffer greater harm from the granting or refusal of the stay pending a decision on the merits: *De Longte v. De Longte*, 2025 ONCA 30, at paras. 7-8; *Carvalho Estate v. Verma*, 2024 ONCA 222, 170 O.R. (3d) 781, at paras. 4-5.
- [10] I accept, for the purposes of this motion, that the merits of the appeal are not frivolous and that therefore Ms. Khorramrooz has satisfied the "serious issue to be tried" consideration. I would, however, give this factor little weight since the merits of her appeal are not strong. The grounds of appeal relating to the payment of child support seek to challenge findings of fact that are entitled to deference in the absence of any demonstration of an error of law or a palpable and overriding error of fact. Moreover, Ms. Khorramrooz's claim is based largely on concerns about her health that are not persuasively demonstrated by the motion materials she offers.
- [11] I am not satisfied that denying the stay will cause irreparable harm to Ms. Khorramrooz. She is living with her parents and is owed a significant equalization payment from Mr. Baradar, which will likely be paid out of the proceeds of sale of the matrimonial home, which she agrees holds meaningful equity value. If she prevails on appeal, any payments she makes pending appeal pursuant to the order that is subsequently reversed can be adjusted.
- [12] I am also unpersuaded that the balance of convenience favours granting the motion. The trial judge found that the parties' three children are dependents who reside with Mr. Baradar and that Ms. Khorramrooz has made no child support payments since the parties' separation in 2018. Therefore, the entire burden of maintaining the children falls and has fallen for years on Mr. Baradar. The best interest of the children is relevant at this stage of the analysis: *De Longte*, at para. 12. Child support is the right of the child, not the parent: *D.B.S. v. S.R.G.*, 2006 SCC 37, [2006] 2 S.C.R. 231, at para. 104. Mr. Baradar submitted that the parties' children are currently facing severe financial stress and that their basic needs including housing and education are at risk of being unmet. It is clearly not in the best interest of the children in this case to suspend the support payments pending appeal. On the

record before me the balance of convenience favours Mr. Baradar and the dependent children who reside with him.

- [13] In these circumstances, Ms. Khorramrooz's motion for a stay pending appeal is also dismissed. CASE MANAGEMENT DIRECTIONS
- [14] It is obviously in the interests of justice to hear the two appeals together, given that they stem from the same underlying order and there is overlap in the issues between them. It will save the parties from having to attend on more than one occasion and achieve the efficient use of court resources. I am therefore ordering that the appeals be grouped according to s. 11.9.1 of the "Practice Direction Concerning Civil Appeals at the Court of Appeal for Ontario" (March 1, 2017).
- [15] It would be wasteful to have each of the appellants obtain a full set of transcripts of the same proceeding below. I am directing pursuant to s. 11.9.1.3 of the Practice Direction that the parties file a consolidated record containing the transcripts. Mr. Baradar included a quote from a transcriptionist in his motion record, with a total cost of \$3679.40 to obtain the transcripts for each day of the trial listed on the trial judge's reasons for decision. The parties are each required to pay half the costs of those transcripts, subject to the following terms.
- (1) Both parties are to pay \$1,839.70 to the Accountant of the Superior Court of Justice by February 27, 2026. Once the payment is made, they are to provide a receipt from the Accountant to the Registrar of the Court of Appeal and the opposing party within 48 hours.
 - (2) If both parties pay \$1,839.70 to the Accountant by February 27, 2026, the Accountant is directed to release the total funds of \$3679.40 to Mr. Baradar. Mr. Baradar will be responsible for ordering the transcripts and providing the Certificate/Proof of Ordering from a certified transcriptionist to the Registrar of the Court of Appeal and Ms. Khorramrooz by March 13, 2026.
 - (3) If one party pays \$1,839.70 to the Accountant by February 27, 2026, but the other party does not, the Accountant is directed to return the funds to the party who paid.
 - (4) If the scenario in Term (3) occurs, the party who did pay by the deadline may bring a motion to dismiss the appeal of the party who did not pay by the deadline for delay pursuant to r. 61.13(1)(a). The party who did pay by the deadline may elect to continue their appeal, but they will bear sole responsibility for the cost and process of obtaining the transcripts. If the party who did pay by the deadline elects to continue their appeal, they must provide the Certificate/Proof of Ordering from a certified transcriptionist to the Registrar of the Court of Appeal and the opposing party by March 13, 2026, failing which the opposing party may bring a motion to dismiss their appeal for delay pursuant to r. 61.13(1)(a).

- (5) If neither party pays \$1,839.70 to the Accountant by February 27, 2026, and the Registrar does not receive a Certificate/Proof of Ordering from a certified transcriptionist by March 13, 2026 from either party, the Registrar will dismiss both appeals for delay, pursuant to r. 61.13(3.1) with no costs to either party.
- (6) If the transcripts are ordered, either jointly or by one of the parties, the appeal(s) is (are) to be perfected by July 10, 2026, failing which the Registrar will dismiss the appeal(s) for delay pursuant to r. 61.13(3.1).
- [16] I am directing the Registrar to issue and enter an order which reflects these terms in order to facilitate the process of paying money to the Accountant. The need for the parties to consent to the form and content of the order is dispensed with.
- [17] I also dispense with the requirement to file an affidavit in r. 72.03(2)(c) to have the Account return or released to any party in any of the above scenarios.
- [18] Given that both parties are self-represented and their appeals are now grouped, this matter is appropriate for appeal management, as described in s. 8 of the Practice Direction. An appeal management judge should be appointed to assist the parties in this case. I am not seized.
- [19] The parties are to bear their own costs of the three motions which are the subject of this decision. “David M. Paciocco J.A.”

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