

CANADA / JUDGMENT

United States v. Georgiou

2026 ONCA 192

COURT

Court of Appeal for Ontario

DECIDED

13 March 2026

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United States v. Georgiou

Collection

Decisions of the Court of Appeal

Date

2026-03-13

Neutral citation

2026 ONCA 192

Docket numbers

COA-25-OM-0089, M56625

Judges

Lauwers, Peter D.

Subject

Criminal

Decision Content

COURT OF APPEAL FOR ONTARIO

CITATION: United States v. Georgiou, 2026 ONCA 192

DATE: 20260313

DOCKET: M56625 (COA-25-OM-0089)

Lauwers J.A. (Motion Judge)

BETWEEN

The Attorney General of Canada on behalf of the United States of America

Respondent

and

George Georgiou

Applicant

George Georgiou, acting in person

Adrienne Rice, for the respondent

Heard: January 28, 2026

REASONS FOR DECISION

- [1] Before me, George Georgiou seeks state-appointed counsel or amicus and a stay until counsel or amicus is appointed to prevent a miscarriage of justice.
- [2] The context for this application is that Mr. Georgiou has applied for leave to appeal to this court under s. 35 of the Mutual Legal Assistance in Criminal Matters Act, R.S.C. 1985, c. 30 (4th Supp.) (“MLACMA”). He seeks to attack the validity and finality of his 2010 conviction and sentence in the United States of America for his role in a US\$55 million stock fraud, and, more pertinently, to stay the execution in Canada of an American final order of forfeiture against proceeds held in a Royal Bank of Canada account of about \$9.2 million. Canada and the United States have entered into a treaty that engages this legislation and authorizes such a forfeiture: Treaty Between the Government of Canada and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters, 18 March 1985, Can. T.S. 1990 No. 19 (entered into force 24 January 1990) (“MLAT”).
- [3] In the application under appeal, Mr. Georgiou applied for a stay of the execution of the American final order of forfeiture and asked the court to “terminate” the order. He also applied for an order compelling the Attorney General of Canada to disclose any Canadian co-operation with the U.S. prosecution authorities in relation to the U.S. convictions that gave rise to the forfeiture order. The application judge summarily dismissed both applications, exercising his authority under *R. v. Haevischer*, 2023 SCC 11, [2023] 1 S.C.R. 416, to do so in the criminal context on the basis that the applications are manifestly frivolous.
- [4] The application judge found, at para. 23, “This court has no jurisdiction to strike down orders made in the U.S. and the application to do so is manifestly frivolous and, as a result, dismissed summarily: *Haevischer*, at para. 85.” He also rejected Mr. Georgiou’s argument that the U.S. order was not final because he had a pending application in the U.S. to reopen his case. The application judge also found this argument to be frivolous. After reviewing the record, he stated at para. 37, “The avenues of appeal that led to the U.S. Order being issued have been exhausted and no further remedy can be ‘reached’: *Haevischer*, at para. 85.” He added, at para. 38, “If I concluded otherwise, a party could simply launch application after

application devoid of any merit to halt the enforcement of a properly made court order.” Mr. Georgiou’s pending U.S. application has since been dismissed and he asserts that he has applied to the Supreme Court of the United States for relief.

- [5] For the reasons set out below, I dismiss Mr. Georgiou’s order for a stay until state-appointed counsel or amicus is appointed and his application for the appointment of counsel or amicus.

A. The Governing Principles [6] Because Mr. Georgiou has not been charged under the Criminal Code, R.S.C. 1985, c. C-46, this is not an application for the appointment of counsel under s. 684 of the Code. However, the principles governing the appointments of lawyers under that section provide helpful guidance to me in the exercise of my discretionary and inherent power to ensure a fair process, adapting this court’s holding in *R. v. Rowbotham*, 1988 CanLII 147, 41 C.C.C. (3d) 1 (Ont. C.A.), at paras. 165-69, and the Supreme Court’s considerations in *Ontario v. Criminal Lawyers’ Association of Ontario*, 2013 SCC 43, [2013] 3 S.C.R. 3, as to the appointment of state-funded amicus, as applied in *R. v. Imona-Russel*, 2019 ONCA 252, 145 O.R. (3d) 197, at para. 74: see also *Morwald-Benevides v. Benevides*, 2019 ONCA 1023, 148 O.R. (3d) 305, at para. 25. While *Rowbotham* did not address whether the court could order state funding of counsel, the court in *Criminal Lawyers’ Association* held that such funding is available in the appropriate case.

- [7] The issue for me to resolve is whether it is appropriate in this case to appoint state-funded counsel or amicus to assist Mr. Georgiou in his effort to obtain leave to appeal and beyond.

- [8] Section 684(1) of the Code provides:

A court of appeal or a judge of that court may, at any time, assign counsel to act on behalf of an accused who is a party to an appeal or to proceedings preliminary or incidental to an appeal where, in the opinion of the court or judge, it appears desirable in the interests of justice that the accused should have legal assistance and where it appears that the accused has not sufficient means to obtain that assistance.

- [9] To appoint counsel, in addition to finding that the accused has insufficient means, the court must be satisfied, in the words of s. 684(1), that “it appears desirable in the interests of justice that the accused should have legal assistance.” The onus is on the applicant to establish that desirability: *R. v. Abbey*, 2013 ONCA 206, 115 O.R. (3d) 13, at para. 31. In *Abbey*, Watt J.A. observed, at para. 29, that the phrase “the interests of justice” is a “legal chameleon that takes its meaning from its surroundings” and explained that it “contemplates a judicial discretion exercisable on a case-by-case basis,” citing para. 16 of *R. v. Bernardo* (1997), 121 C.C.C. (3d) 123 (Ont. C.A.).

- [10] The elements of the test under s. 684(1) of the Criminal Code were summarized in *R. v. Staples*, 2016 ONCA 362, 352 O.A.C. 392, at para. 34:

1. Does the applicant have the means to hire counsel privately?
2. Does the applicant have arguable grounds of appeal?

3. Is the applicant able to effectively advance the appeal without the assistance of counsel?

B. The Principles Applied [11] I will use the Staples questions to structure my analysis while keeping in mind the underlying principles in Rowbotham and in Criminal Lawyers' Association. I will also focus on the original relief requested by Mr. Georgiou in the court below, not on whether the application judge properly exercised his authority to dismiss Mr. Georgiou's application summarily. I add that it is not my task to decide Mr. Georgiou's application for leave to appeal, only his application for the appointment of state-funded counsel.

1. Does Mr. Georgiou have the means to hire counsel privately? [12] Mr. Georgiou simply points to the size of the forfeiture order and asserts that he is without resources. He alleged that he was rejected by Legal Aid but provided no supporting documentation. This is not a sufficient basis on which to establish that he has no other means, personally or through accessible family sources.
2. Does Mr. Georgiou have arguable grounds of appeal? [13] To set the context, Mr. Georgiou's unrelenting effort in the U.S. and Canada has been to pry open the merits of his fraud conviction. He sows suspicion of nefarious cooperation between U.S. and Canadian authorities and seeks to expose it because, he will argue, it shows that he was not guilty and should be able to keep the \$9.2 million sitting in the RBC account that is held on his behalf by a friend. The order he sought from the application judge and on appeal sets this out. He seeks, in part:

An Interim and Permanent Order for the production by The Attorney General of Canada ("the AG"), of communications and other records of joint cooperation between the AG of Canada and the Department of Justice (the "DOJ") in the United States; including their respective, associated agencies (on one hand, the Ontario Provincial Police (the "OPP"), the Royal Canadian Mounted Police (the "RCMP"), the Toronto Municipal Police, the Montreal Municipal Police, and the Ontario Securities Commission (the "OSC"), and on the other hand, the Federal Bureau of Investigation (the "FBI"), the Drug Enforcement Agency (the "DEA"), and the Securities and Exchange Commission (the "SEC"). The communications and records of joint cooperation sought are those with respect to the investigation and prosecution of George Georgiou, and as they may relate whatsoever to the investigation and potential prosecution of Vito Rizzuto and Vince Derosa by either government.

- [14] In the proceedings below, the Crown submitted that Mr. Georgiou's motion is effectively a collateral attack on American judgments. The Crown also argued that the claims are a collateral attack on Canadian court rulings that have ruled on the validity and enforceability of the forfeiture order. I agree with these submissions. Mr. Georgiou has repeatedly raised unfounded allegations of abuse of process in the American proceedings, which have been repeatedly denied.

- [15] Mr. Georgiou also raises Charter issues in his motion for leave to appeal, arguing that s. 35 of the MLACMA breaches ss. 8 and 15 of the Charter because it only permits appeals on matters of law. There is no basis for these claims. I agree with the Attorney General that Mr. Georgiou has not identified any enumerated or analogous grounds under s. 15. Similarly, Mr. Georgiou has not explained why a circumscribed right to appeal would result in unreasonable seizures.
- [16] I conclude that Mr. Georgiou does not have arguable grounds for appeal. This does not decide his appeal on the merits, which is a matter for the panel that will ultimately hear it. My determination only affects whether he should get state-appointed counsel.
3. Is Mr. Georgiou able to effectively advance the appeal without the assistance of counsel? [17] Mr. Georgiou's motion materials were well-prepared. He is as articulate a litigant as I have ever seen. His knowledge of the file and the applicable law is manifest and comprehensive. I am not surprised that the U.S. District Court admired his capacity to defend himself:

Throughout the entire evidentiary hearing, Georgiou effectively represented himself and thoroughly questioned all of the nineteen witnesses, which encompassed many seasoned and accomplished attorneys. Georgiou zealously advocated for himself. Not only did he effectively utilize the law, but he fully used his unparalleled knowledge of the facts of his case, including the trial record, to his full advantage... [Footnote omitted.]

- [18] I make a similar assessment of Mr. Georgiou's skill here based on his materials and his submissions.
- [19] Mr. Georgiou's familiarity with the Canadian legal system, and the MLAT is amply demonstrated by his Canadian litigation. In September 2012, Forestell J. entered the U.S. restraint order as a judgment of the Superior Court of Justice pursuant to section 9.3 of the MLACMA. Mr. Georgiou moved to set aside Forestell J.'s order, and his motion was summarily dismissed by Molloy J. on April 24, 2017. On March 29, 2018, the Court of Appeal dismissed Mr. Georgiou's appeal of Molloy J.'s summary dismissal. The Supreme Court of Canada dismissed his application for leave to appeal. On April 1, 2021, the forfeiture order was filed and entered as a judgment of the Superior Court of Justice, rendering it enforceable in Canada under subsection 9.4(3) of MLACMA. Mr. Georgiou then brought the application that was the subject of the decision below.
- [20] Mr. Georgiou has demonstrated his ability to effectively advance his appeal without the assistance of state-appointed counsel. I am alive to the logistical issue Mr. Georgiou faces as an individual incarcerated in a foreign prison. I therefore direct the Crown to provide Mr. Georgiou with logistical support where necessary to assist him in completing and filing his motion for leave to appeal materials.

C. Disposition [21] For these reasons, I dismiss Mr. Georgiou's order for a stay until state-appointed counsel or amicus is appointed and his application for the appointment of counsel or amicus.

[22] This matter should be added to the status court list for further management.

“P. Lauwers J.A.”

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Prepared on 26 October 2026 · Esheria