

In the Court of Appeal of Alberta

Citation: Thompson v Alberta (Director of SafeRoads), 2025 ABCA 262

Date: 20250718
Docket: 2401-0302AC
Registry: Calgary

Between:

Jayla Marcy Thompson

Applicant

- and -

Director of SafeRoads Alberta

Respondent

**Oral Reasons for Decision of
The Honourable Justice Jo'Anne Streckf**

Application for Stay Pending Appeal

**Oral Reasons for Decision of
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Background

[1] This is a case where the applicant, Jayla Thompson, is applying for a stay of enforcement pending appeal. That application is opposed by the Director of SafeRoads Alberta.

[2] On June 17, 2023, the police responded to a possible impaired driver. The applicant was stopped, and provided a breath sample which resulted in a “fail”. She was issued a Notice of Administrative Penalty (NAP) pursuant to the *Traffic Safety Act*, RSA 2000, c T-6 [TSA]. As this appeared to be the applicant’s second occurrence, she was fined \$2400, her vehicle was seized for 30 days, and her license was suspended for 90 days plus an additional 36 months: TSA, s 88.1(4)(b).

[3] The applicant requested a review of the NAP before a SafeRoads adjudicator. That proceeded on July 8, 2024. The adjudicator issued his decision on July 17, 2024, and confirmed the NAP.

[4] The applicant sought a judicial review of the adjudicator’s decision. The respondent brought a summary dismissal application on the basis that the judicial review application was outside the 30-day deadline in s 24(2) of the *Provincial Administrative Penalties Act*, SA 2020, c P-30.8. The chambers justice granted the respondent’s summary dismissal application, and that decision has been appealed to this Court. No date for the appeal has yet been set. The applicant is now seeking a stay of enforcement of the \$2400 fine and the license suspension.

Applicable Test

[5] As the parties have outlined, the test for a stay pending appeal is from *RJR MacDonald Inc v Canada (Attorney General)*, 1994 CanLII 117 (SCC). That requires the applicant, and the onus here is on the applicant, to demonstrate: (1) there is a serious question to be tried; (2) the applicant will suffer irreparable harm if the stay is not granted; and (3) the balance of convenience favours granting a stay. A stay is a discretionary remedy, and the fundamental question is whether it is just and equitable in the circumstances: *Google Inc v Equustek Solutions Inc*, 2017 SCC 34 at paras 24-25.

Analysis

[6] Dealing with the first part of the test, the threshold to establish a serious question to be tried is low. However, given this Court’s decision in *Siciliano v Alberta (Director of SafeRoads)*, 2024 ABCA 62, the applicant faces very serious hurdles. I make no further comments with respect to that but recognize that that is of concern with respect as to whether she has met that part of the test.

[7] With respect to irreparable harm, the applicant has argued that the fine and license suspension is causing her significant financial and personal hardship including affecting her ability to seek legal assistance and prepare for the appeal. She argues that the penalties impact her ability to commute, which jeopardizes her livelihood and financial circumstances.

[8] It is well established in this test that irreparable harm refers to the nature of the harm, not its magnitude and it is generally considered to be harm that is not quantifiable in monetary terms which cannot be cured. An applicant bears the onus of demonstrating irreparable harm with evidence that is clear and not speculative.

[9] The concern that the Director raises is that the applicant has not submitted evidence to corroborate the harm she alleged. Further there is authority from this Court that having to pay money alone is not irreparable harm: *Wang v Alberta*, 2021 ABCA 175 at para 58; *Kassian v Hill*, 2002 ABCA 140 at para 6. In the circumstances, while I understand the challenges that Ms Thompson has identified, I am not satisfied that she has met the test to establish irreparable harm as that has been interpreted by the courts on stay applications.

[10] The balance of convenience involves assessing which of the parties to an application would suffer greater harm from the granting or refusal of the stay pending the outcome of the appeal. This test is applied a little bit differently in circumstances like this where what you are dealing with is an individual as compared to the Director of SafeRoads who has a public responsibility.

[11] The applicant argues that the harm caused to her personally by the penalties “far outweighs any inconvenience to SafeRoads Alberta.” Courts are concerned about the public interest at the balance of convenience and certainly judicial notice has been taken of the substantial risks and societal harm associated with impaired driving.

[12] What needs to be weighed is whether the licensee has taken reasonable steps to mitigate the risk to the public while legal rights are exercised. One of the considerations is that the respondent has indicated that the applicant could enroll in the IMPACT programme and install an interlock device in her vehicle and could apply, once she has done that, to the Registrar to set aside her suspension. There are these steps that can be taken. There is no evidence that the applicant has pursued that option.

[13] In the circumstances, I am not satisfied that the applicant has demonstrated that the balance of convenience weighs in favour of granting a stay.

Conclusion

[14] In view of all of the circumstances, I am not satisfied that a stay should be granted. The application for a stay pending appeal is dismissed.

[15] Rule 9.4(2)(c) is invoked, and the Court will prepare the resulting order.

Application heard on June 12, 2025

Reasons filed at Calgary, Alberta
this 18th day of July, 2025

Strekaf J.A.

Appearances:

Applicant, J.M. Thompson

J. Sadhra
for the Respondent