

CITATION: Kastia v. Ahlgren, 2026 ONSC 146
COURT FILE NO.: CV-16-148
DATE: 2026 01 07

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

Steve Paul Kastia

Plaintiff

- and -

Gwendolyn Ahlgren

Defendant

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) Fabio Gazzola, for the Plaintiff
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) Charles Flaherty, for the Defendant
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) **HEARD:** November 13, 2025
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REASONS FOR JUDGMENT

Wilkinson J.

[1] The Plaintiff, Steve Paul Kastia also known as Steven Paul Kovalchik (“Mr. Kastia”), brings a motion seeking an order setting aside the rule 48.14

administrative dismissal of his action, and an order amending the October 30, 2023 order of Justice Miller which required Mr. Kastia to file his trial record by September 30, 2024.

[2] The Defendant, Ms. Ahlgren, brings a cross motion seeking a dismissal of Mr. Kastia's action because she submits that it is frivolous and vexatious. In the alternative, Ms. Ahlgren seeks a dismissal of Mr. Kastia's action for failure to follow court orders, including a failure to set the action down for trial, and an alleged failure to answer undertakings.

[3] For the reasons that follow, Mr. Kastia's motion to set aside the registrar's order is denied. Even if I had set aside the registrar's order, I would have dismissed Mr. Kastia's action for being frivolous and vexatious.

The Issues

[4] The issues to be determined on this motion are:

- i) Should the Registrar's administrative dismissal of this action be set aside and the timetable of Justice Mills amended?
- ii) Should Mr. Kastia's action be dismissed for delay for failing to comply with Justice Mills' July 14, 2022 order to answer undertakings within 30 days?
- iii) Should the Plaintiff's action be dismissed for being frivolous and vexatious?

Background

[5] The parties were involved in an intimate dating relationship from January 2010 to January 2012. On January 4, 2012, Mr. Kastia entered Ms. Ahlgren's home, and engaged in a physical altercation with another individual, Ryan Kristensen, who was a prior boyfriend of Ms. Ahlgren, and a guest in her home on the night in question. In his Statement of Claim Mr. Kastia stated that Mr. Kristensen was rendered unconscious as a result of this encounter.

[6] Mr. Kastia was arrested and charged with four criminal offences with respect to this incident: assault causing bodily harm to Ryan Kristensen; break and enter with intent to commit an indictable offence; mischief; and assault regarding Ms. Ahlgren.

[7] Mr. Kastia was held in pre-trial custody for seventeen days, and released on January 20, 2013, on a recognizance of bail. Mr. Kastia deposed that upon his release from custody he was terminated from his employment in automobile sales due to his absence from work while in custody.

[8] A preliminary inquiry was held on June 17 and 18, 2013. On January 13, 2014, Mr. Kastia pleaded guilty to assault, and the remaining three charges against him were dropped. Mr. Kastia alleges that the evidence of Ms. Ahlgren at the preliminary inquiry differed from the evidence she provided to the police on the night of the events which led to criminal charges being laid against him. He alleges that Ms. Ahlgren intentionally provided fabricated stories to the police which resulted in his arrest and incarceration.

[9] Mr. Kastia issued a Statement of Claim against Ms. Ahlgren on January 12, 2016, in which he claimed damages for traumatic, emotional and nervous upset due to the loss of his employment which he claims was caused by Ms. Ahlgren's malicious fabrication and prosecution. Mr. Kastia did not sue the police or Ryan Kristensen.

[10] Ms. Ahlgren filed a Statement of Defence on February 12, 2016.

[11] There was little activity with the case until after the rule 48 five-year deadline to file a trial record had already passed. On March 4, 2021, a consent order was made by Justice Fitzpatrick, which set out the remaining steps to be completed by the parties, and extended the time for filing a trial record to September 30, 2022.

[12] On June 14, 2022, Ms. Ahlgren brought a motion seeking to dismiss Mr. Kastia's action for being frivolous and vexatious, or in the alternative, an order for security for costs. In her endorsement dated July 4, 2022, Justice Mills ruled that the motion was premature because the Crown brief was still missing, and further, Ms. Ahlgren had not sworn an affidavit herself. Justice Mills dismissed the motion without prejudice to the Defendant to bring the motion again when the additional documentation had been obtained.

[13] Justice Mills also ordered that Mr. Kastia pay security for costs on a "pay as you go" basis, with the first cost payment of \$9,660 being due thirty days before the pretrial conference took place.

[14] Justice Mills also ordered that Mr. Kastia bring a *Wagg* motion within 30 days, and required him to answer all outstanding undertakings within 30 days.

[15] Mr. Kastia served the *Wagg* motion on August 3, 2022, but the Crown requested more time to obtain the requested documents. The motion was adjourned several times, and ultimately heard by Justice Chang on August 9, 2023. Justice Chang dismissed the motion without prejudice, finding that it ought to have been brought in writing. The *Wagg* order was eventually signed by Justice Mills on September 19, 2023.

[16] On October 30, 2023, Mr. Kastia obtained a second order extending the time to file his trial record, this time until September 30, 2024.

[17] In September 2024, Mr. Kastia asked Ms. Ahlgren to agree to another extension to file the trial record. On September 26, 2024, Ms. Ahlgren advised Mr. Kastia that she would consent to another extension to file the trial record if Mr. Kastia paid her the first cost installment of \$9,660 from Justice Mills' July 14, 2022 order. Mr. Kastia rejected this proposal on September 27, 2024. The parties then agreed to argue both Mr. Kastia's motion, and Ms. Ahlgren's motion seeking to dismiss the action, on January 23, 2025.

[18] In the fall of 2024, Mr. Kastia had continued to make efforts to obtain records in the possession of the Ministry of the Attorney General. He provided copies of numerous pieces of correspondence which establish his efforts to locate and submit documents previously provided by his criminal lawyer to the Attorney General, which were to be reviewed and vetted. The Attorney General was then expected to advise Mr. Kastia as to which documents would be permitted to be used in this litigation. The letter from the Attorney General to Mr. Kastia in response stated that it expected to have an answer for Mr. Kastia by June 2025.

[19] Mr. Kastia did not file the trial record by September 30, 2024, as required by the October 30, 2023 Mills order, nor did he bring a motion prior to that date to extend the time to file the trial record.

[20] Mr. Kastia did not serve or attempt to file his motion record until January 16, 2025. Four days later, he received a notice from the court that his action had been administratively dismissed pursuant to rule 48.14 of the *Rules of Civil Procedure*. The registrar further advised that the action ought to have been dismissed on October 1, 2024, as the Plaintiff did not file the trial record by the September 30, 2024 deadline set by Justice Mills, but the dismissal was delayed due to a clerical error.

[21] Mr. Kastia then received a further email from the court on January 20, 2025, advising him that the filing of the January 16, 2025 motion record had been rejected as a result of the action being dismissed on January 20, 2025.

[22] Mr. Kastia amended his motion record to add a request to set aside the Registrar's administrative dismissal of his action.

[23] With the consent of the Attorney General, the outstanding documents were provided to Ms. Ahlgren's lawyer by Mr. Kastia on July 18 and 25, 2025.

Position of the Plaintiff

Mr. Kastia's motion to set aside the administrative dismissal and amend Justice Mills' October 30, 2023 order

[24] Mr. Kastia takes the position that his failure to file the trial record before the September 30, 2024 deadline set by Justice Mills was addressed in the motion record he served on Ms. Ahlgren on January 16, 2025. He also argues that it was reasonable for him to delay filing the trial record because he did not yet have the full Crown brief, and did not know if he would need to bring additional motions to compel the production of documents. In addition, he did not wish to signal to the court that the parties were ready for trial when there were still relevant documents missing. Mr. Kastia asks that an order be granted extending the time for filing the trial record from September 30, 2024 to a future date.

Ms. Ahlgren's motion to dismiss Mr. Kastia's action for delay for failing to comply with Justice Mills' July 14, 2022 order to answer undertakings within 30 days

[25] Mr. Kastia takes the position that he has answered all the undertakings to the best of his ability, and that his action should therefore not be dismissed. He deposed that he requested all the documentation from third parties that he gave an undertaking to produce, and that he has produced everything that was sent to him.

Ms. Ahlgren's motion to dismiss Mr. Kastia's claim for being frivolous and vexatious

[26] Mr. Kastia submits that his malicious prosecution claim against Ms. Ahlgren is reasonable and justified, and ought not to be dismissed. He argues that the test under rule 21 is not the same standard as a test for summary judgment. He takes the position that a determination must be made based on the allegations in the Statement of Claim if it is plain and obvious that the case will fail.

[27] Mr. Kastia submits that the evidence that Ms. Ahlgren gave at his preliminary inquiry was different in many respects from the statement she gave to the police at the time of the incident. He argues that if Ms. Ahlgren had told the police the same information in January 2012 that was her evidence in court in 2013, he likely would not have been kept incarcerated for seventeen days, and would not have consequently lost his job.

[28] Mr. Kastia provided affidavit evidence which set out his theory as to the reason he believes Ms. Ahlgren was motivated to provide inaccurate information to the police. He stated that prior to his romantic relationship with Ms. Ahlgren, she had a thirteen-year common law relationship with another man, David Pilz, with whom she shared a child. They separated approximately two years prior to the night of the incident.

[29] Mr. Kastia provided further affidavit evidence that Ms. Ahlgren was involved in a romantic relationship with Mr. Kristensen for the last two and a half years of her relationship with Mr. Pilz. Mr. Kastia alleges that Ms. Ahlgren's relationship with Mr. Kristensen ended at approximately the same time that her relationship with Mr. Pilz ended.

[30] Mr. Kastia stated that Ms. Ahlgren was anticipating receiving a large cash settlement from her family law claim with Mr. Pilz, and was concerned that Mr. Pilz was going to act aggressively in the family law litigation if he became aware of her affair with Ryan Kristensen. Mr. Kastia therefore alleges that Ms. Ahlgren did not want Mr. Kristensen charged with any criminal offences.

[31] Mr. Kastia deposed that prior to the night of January 4, 2012, Ms. Ahlgren had stated to him that she was concerned about Mr. Kristensen's obsessive behaviour towards her.

[32] Mr. Kastia deposed that on the night of January 4, 2012, he went to Ms. Ahlgren's home and discovered Mr. Kristensen's vehicle parked in the driveway of Ms. Ahlgren's home. He immediately became concerned that Mr. Kristensen was harming Ms. Ahlgren. When he tried to go in the front door it was unlocked, but there was a small latch keeping the door closed, which Mr. Kastia had to break

through to gain entrance to the home. Mr. Kastia also stated that he had a key to Ms. Ahlgren's residence at that time.

[33] Once in the home, Mr. Kastia saw Mr. Kristensen with no pants on, and confronted him. Mr. Kastia stated that in the course of this altercation Mr. Kristensen pulled a knife on him, and that he eventually wrestled the knife away from Mr. Kristensen, while sustaining several cuts in the process. He admitted that he had choked Mr. Kristensen.

[34] Mr. Kastia then went to the police station to report the incident. Around the same time, Ms. Ahlgren also called the police, and provided a statement which Mr. Kastia alleges included fabrications, which resulted in the criminal charges being laid against him.

[35] In his affidavit, Mr. Kastia deposed that the 911 audio recording establishes that the following false information was provided to the police by Ms. Ahlgren in January 2012:

- a) That he kicked in her front door and broke into her home;
- b) That he assaulted Ms. Ahlgren by shoving her and causing her to fall against the railing of her stairs;
- c) That he beat up her boyfriend, Ryan Kristensen;
- d) That Ms. Ahlgren repeatedly referred to Ryan Kristensen as her current boyfriend;

- e) That Ms. Ahlgren advised the police that Mr. Kastia was her former boyfriend;
- f) That Ms. Ahlgren advised the police that she and Mr. Kastia had a horrible breakup two months prior;
- g) That Ms. Ahlgren advised the police that she had not seen Mr. Kastia for the previous two months; and
- h) That Ms. Ahlgren advised the police that Mr. Kastia was not permitted at her home at anytime and that he did not have a key to her residence.

[36] Mr. Kastia stated in his affidavit that contrary to Ms. Ahlgren's statement to the police, he had spent time with her at Christmas and over the holidays in the weeks before the incident. He also stated that Ms. Ahlgren had told him that she was afraid that Mr. Kristensen might harm her or her son when he was having dinner with her on January 2, 2012, which was two days before the incident.

[37] In his affidavit Mr. Kastia also set out the evidence that Ms. Ahlgren provided at the preliminary inquiry that differed from the statement she originally gave to the police:

- a) That the break-up with Mr. Kastia was mutual and that they were still friendly and cared for one another;
- b) That Ryan Kristensen was not her boyfriend on the night of the incident;
- c) That Ryan Kristensen had previously harassed both her and Mr. Kastia;

- d) That Mr. Kristensen was still showing signs of obsessive behaviour around the time of the incident;
- e) That Mr. Kristensen had frightened her in the past and that she had referred to him as a “stalker”;
- f) That Mr. Kastia had a key to her house and was permitted to go into her house;
- g) That while the latch on the door was damaged during the incident, the front door itself was not damaged;
- h) That Mr. Kastia’s left shoulder brushed her as she was turning on the stairs and she slipped on the hardwood in her socks, and fell on one knee;
- i) That Mr. Kastia did not assault her;
- j) That she went out for dinner with Mr. Kastia just two days prior to the incident; and
- k) That Mr. Kastia was right to be concerned when he saw Mr. Kristensen’s vehicle in her driveway.

[38] Mr. Kastia stated in his affidavit that he eventually pleaded guilty to assault because he could not afford the legal fees to conduct a trial, and as well, his proposed sentence was the seventeen days in prison that he had already served, along with two years’ probation.

[39] Mr. Kastia therefore takes the position that Ms. Ahlgren’s original statement to the police included incorrect facts that were given to the police for a malicious purpose. He further argues that the fact that police and Mr. Kristensen were not

also sued does not change his claim that Ms. Ahlgren acted with malicious intent in her efforts to have him prosecuted.

[40] Mr. Kastia also takes the position that the fact that he has not provided evidence of his damages for today's motion should not factor into my decision, as this is not a summary judgment motion. He emphasized that the only consideration before me is whether it is plain and obvious that the action will not succeed.

[41] Mr. Kastia therefore submits that Ms. Ahlgren has not established that his action is frivolous, vexatious, or an abuse of process, and that her motion to dismiss his action should be dismissed.

Position of the Defendant

Mr. Kastia's motion to set aside the administrative dismissal and amend Justice Mills' October 30, 2023 order

[42] Ms. Ahlgren takes the position that the administrative dismissal order should not be set aside given the delay that has already taken place with the case, and the continued expense of her ongoing legal fees. In addition, she references the fact that the cost award of \$9,660 that was to be paid to her prior to the filing

of the trial record has been delayed due to the plaintiff's delay in filing the trial record.

[43] Ms. Ahlgren also submits that Mr. Kastia has not provided a satisfactory explanation for his delay in bringing the *Wagg* motion for the production of documents, or for his delay in bringing the motion to extend the time to file a trial record.

[44] Ms. Ahlgren also points to the past actions of Mr. Kastia as evidence of unreasonable delays in this case, including:

- a) Not producing an affidavit of documents prior to his April 2021 examination for discovery which took place over five years after the action was started;
- b) Not requesting the outstanding documentation from the Ministry of the Attorney General until 2021; and
- c) His ongoing failure to produce some of his undertakings.

[45] Ms. Ahlgren further submits that Mr. Kastia has not led satisfactory evidence to establish his intention to move forward with the litigation, and that she has been prejudiced due to the passage of time. She is concerned that memories have faded, documents have gone missing, and witnesses may no longer be able to provide reliable evidence. In addition, Mr. Flaherty, the lawyer who has had

carriage of her file since 2020, is retiring. He advised the court that his attendance on this motion was one of the last legal services he will be providing to any client.

Ms. Ahlgren's motion to dismiss Mr. Kastia's action for delay for failing to comply with Justice Mills' July 14, 2022 order to answer undertakings within 30 days

[46] The affidavit from law clerk Amber Revill stated that Mr. Kastia has still not produced numerous undertakings, including medical records, and some of his tax returns, which are necessary with respect to his claim for damages. She also stated that he has not produced the file of his former criminal lawyer, Kim Taylor, as well as the Agreed Statement of Facts used for Mr. Kastia's guilty plea.

[47] Ms. Ahlgren submits that Mr. Kastia's failure to follow Justice Mills' July 4, 2022 order to produce his undertakings within 30 days justifies a dismissal of his action, particularly since Mr. Kastia has not provided affidavit evidence of his efforts to obtain the documents he agreed to produce.

[48] Ms. Ahlgren also points out that Mr. Kastia has not paid the costs award of \$9,660 that was to be paid thirty days prior to any security for costs payments being made, which includes the \$5,000 security for cost payment that was due thirty days prior to the scheduled pre-trial, pursuant to the July 4, 2022 order of Justice Mills. The pre-trial did not happen because the trial record has not yet been

filed, so the cost payments have not yet been made. Ms. Ahlgren argues that this additional failure to follow Justice Mills' July 4, 2022 order justifies a dismissal of Mr. Kastia's action.

Ms. Ahlgren's motion to dismiss Mr. Kastia's claim as being frivolous and vexatious

[49] Ms. Ahlgren submits that Mr. Kastia has failed to produce any evidence that his claim meets the elements of the tort of malicious prosecution, and that it should therefore be dismissed as it is plain and obvious that the litigation will fail.

[50] In her affidavit, Ms. Ahlgren denied that the information that she provided to the police was contradictory to her evidence at the preliminary inquiry. She also denied that she made any malicious representations to the police that resulted in the initiation of criminal proceedings against Mr. Kastia. She further noted that Mr. Kastia did not sue Mr. Kristensen, who also gave a statement to the police, nor did she sue the police themselves, who were responsible for actually laying the criminal charges against Mr. Kastia, and for keeping him in jail for seventeen days following his arrest.

[51] In his submissions, counsel for Ms. Ahlgren acknowledged that there were some inconsistencies between Ms. Ahlgren's initial statement to the police and her evidence in court, but he argued that the inconsistencies were not glaring.

[52] Ms. Ahlgren also takes the position that Mr. Kastia has not provided any evidence that he has been diagnosed with any mental health issues, or delivered any expert reports to support his claims of mental distress.

[53] Ms. Ahlgren submits that Mr. Kastia's decision to plead guilty to assault confirms that it was reasonable for him to have been charged with assault, which further supports her position that Mr. Kastia was not maliciously prosecuted.

The Law and Analysis

Issue #1: Should the Registrar's administrative dismissal of this action be set aside and the timetable of Justice Miller amended?

[54] Rule 48.14 of the *Rules of Civil Procedure* states that the registrar shall dismiss an action for delay if it has not been set down for trial by the fifth anniversary of the action, unless the court orders otherwise. The rule also states that the action shall not be dismissed if a timetable signed by all parties is filed 30 days prior to the five-year anniversary, or if the plaintiff attends a status hearing, and shows cause why the action should not be dismissed for delay.

[55] Rule 37.14(1)(c) of the *Rules of Civil Procedure* allows a party who is affected by the order of a registrar to move to set aside the order, provided that the notice of motion is served forthwith after the order comes to the person's attention,

and names the first available hearing date. The rule provides that the court may set aside or vary the order on such terms as are just.

[56] The Ontario Court of Appeal confirmed the following factors ought to be considered in determining if an order for the dismissal of an action for delay should be set aside: *Piedrahita v. Costin*, 2023 ONCA 404, at para. 8:

- a) Has the plaintiff provided a satisfactory explanation for the litigation delay?
- b) Has the plaintiff led satisfactory evidence to explain that he always intended to prosecute the action within the applicable time limits but failed to do so through inadvertence?
- c) Has the plaintiff demonstrated that he moved forthwith to set aside the dismissal order as soon as the order came to his attention?
- d) Has the plaintiff convinced the court that the defendant has not demonstrated any significant prejudice in presenting her case at trial as a result of the plaintiff's delay or as a result of steps taken following the dismissal of the action?

[57] The Court of Appeal further stated in *Piedrahita*, at para. 9:

This test is not a rigid one-size fits all test. The court is required to consider and weigh all of the factors to determine the order that is just. The overriding objective is to achieve a result that balances the interests of the parties and takes account of the public's interest in the timely resolution of disputes.

[58] Mr. Kastia has not explained why he initially delayed more than five years after the Statement of Claim was issued before attempting to obtain the relevant documents from the Attorney General through a *Wagg* motion.

[59] Mr. Kastia has also provided no explanation as to why he did not bring a motion to extend the September 30, 2024 deadline. Court orders are meant to be followed.

[60] Mr. Kastia has failed to establish that the registrar's order dismissing his action should be set aside. I make this finding for the following reasons:

- a) Mr. Kastia produced no evidence of efforts made by him to obtain the Crown brief in the first five years following the issuance of the Statement of Claim;
- b) Mr. Kastia provided no explanation as to why he did not bring another motion to extend the time to file the trial record, when he knew that the order of Justice Mills imposed a deadline of September 30, 2024 to file the trial record;
- c) There has been significant delay in this case to date. The original incident occurred over fourteen years ago. While the passage of time may generally suggest prejudice, Ms. Ahlgren has established that she has suffered actual prejudice because her lawyer who has carried this file since 2020 is retiring. It will be very expensive and cause further delay for her to hire a new lawyer to review the case and

familiarize themselves with the facts and extensive history of the litigation.

[61] As I have rejected Mr. Kastia's request to set aside the registrar's dismissal of his action, it is not necessary that I address the remaining motions brought by Ms. Ahlgren. However, for the sake of completeness I will nonetheless provide rulings regarding the additional relief sought by Ms. Ahlgren in her motion.

Issue #2: Should Mr. Kastia's action be dismissed for delay for failing to comply with Justice Mills' July 14, 2022 order to answer undertakings within 30 days?

[62] Mr. Kastia deposed that he has sent Ms. Ahlgren all the documents that were provided to him by third parties, although I note that his tax returns for at least the past seven years should be available at his request from the Canada Revenue Agency.

[63] With the exception of his undertaking to produce his tax returns, Mr. Kastia's request to third parties to produce documentation satisfies the undertakings he gave. If Ms. Ahlgren was not satisfied with the documents provided by third parties in response to Mr. Kastia's request, she had the option of bringing a motion under rule 30.10 of the *Rules of Civil Procedure* against the third parties to compel production of the documents.

[64] Ms. Ahlgren has failed to establish that Mr. Kastia has not used best efforts to obtain the requested documentation. On the record before me I therefore cannot conclude that Mr. Kastia has failed to follow the July 4, 2022 order of Justice Mills, nor does this issue form part of my reasons as to why Mr. Kastia's action is being dismissed.

Issue #3: Should Mr. Kastia's action be dismissed for being frivolous and vexatious?

[65] Rule 21.01(3)(d) of the *Rules of Civil Procedure* states that a defendant may move to have an action stayed or dismissed on the basis that it is frivolous or vexatious or is otherwise an abuse of the process of the court.

[66] A "frivolous" claim has been defined as a claim that has no legal basis or merit: *Danovic v. Wagner*, 2014 ONSC 2664, at para. 20.

[67] A "vexatious" claim has been defined as including one where it is obvious that an action cannot succeed, or if the action would lead to no possible good, or if no reasonable person can reasonably expect to obtain relief: *Danovic*, at para. 20.

[68] In *Danovic* at para. 20, Justice Leach defined the doctrine of abuse of process as one which "engages the inherent power of the court to prevent the

misuse of its procedure in a way that would be inconsistent with the objects of public policy”.

[69] In order to determine whether an action is frivolous, vexatious, or an abuse of the court’s process, a court must look at the whole history of the matter, and not just whether there was originally a good cause of action: *Danovic*, at para. 22.

[70] The dismissal or staying of an action under rule 21.01(d) should only be done in the clearest of cases when it is plain and obvious that the action cannot succeed: *Danovic*, at para. 23.

[71] On a motion under rule 21.01(3)(d), a motion judge may make factual determinations, which requires taking a hard look at the factual background of the case, and the position and conduct of the parties: *Dosen v. Meloche Monnex Financial Services Inc.*, 2021 ONCA 141, 457 D.L.R. (4th) 530, at para. 28.

[72] The Supreme Court of Canada set out the elements of the tort of malicious prosecution as follows: *Miazga v. Kvello Estate*, 2009 SCC 51, [2009] 3 S.C.R. 339, at paras. 53-55:

- a) The prosecution was initiated by the defendant;
- b) The prosecution was terminated in the plaintiff’s favour;
- c) The absence of reasonable and probable grounds to commence or continue the prosecution; and

- d) Proof that the defendant's conduct was motivated by malice or an improper purpose.

[73] The Court of Appeal summarized the following elements for determining whether a complainant can be said to have initiated the prosecution in *Curley v. Taafe*, 2019 ONCA 368, 146 O.R. (3d) 575, at para. 14:

- i) Did the defendant knowingly withhold exculpatory information from the police?
- ii) Did the conduct of the defendant undermine the independence of the police investigation?
- iii) Did the defendant communicate to police in a manner that misled the officers into not conducting an independent investigation?
- iv) Did the defendant undermine the independence of the decision-making process to lay charges and prosecute?

[74] The fact that a complainant may have lied to the police is not enough to establish malicious prosecution. Where a complainant gives a false statement, the court should ask whether the police still exercised their independent discretion in laying charges: *D'Addario v. Smith*, 2018 ONCA 163, at paras. 26 and 29.

[75] I agree with Ms. Ahlgren that it is plain and obvious that Mr. Kastia's claim against her for malicious prosecution will fail. As the Court of Appeal directed in *Dosen*, I have considered not just the pleadings, but the factual background of the case, and the position and conduct of the parties in my determination. I am making this finding for the following reasons:

- a) The criminal charges were not initiated by Ms. Ahlgren. She had no power to lay charges, or to prosecute Mr. Kastia. It was the police that laid the charges after conducting interviews with Ms. Ahlgren, Mr. Kristensen and Mr. Kastia.
- b) Mr. Kastia has not established an absence of reasonable and probable grounds to lay the charges against him. Mr. Kastia admitted breaking the latch on the front door to gain entry to Ms. Ahlgren's house, and he provided no evidence to dispute that Mr. Kristensen was injured as a result of the altercation between them.
- c) Mr. Kastia has not established that Ms. Ahlgren's report to the police was motivated by malice or an improper purpose. Despite the variances in Ms. Ahlgren's initial statement to the police and her testimony in court, the fact still remains that Mr. Kastia broke through Ms. Ahlgren's door, and ultimately pleaded guilty to assaulting Mr. Kristensen.
- d) Mr. Kastia's theory that Ms. Ahlgren did not want Mr. Kristensen charged because her child's father would then find out about her affair is speculation, and not established on the evidence.

- e) It was Mr. Kastia's choice to barge into Ms. Ahlgren's home on the night of the incident. If he was concerned about her safety, he could have called the police before entering the home, or taken other action, such as calling her to see if she was safe. Instead, he broke the latch on the front door to gain access to the home, and Mr. Kristensen was subsequently injured.
- f) There is no evidence that Ms. Ahlgren had any involvement with the decision of the police to incarcerate Mr. Kastia for seventeen days. Mr. Kastia claims that it was the period of incarceration that led to the loss of his job, but he did not sue the police who made the choice to incarcerate him.
- g) There is no evidence before me that Ms. Ahlgren acted in a way that undermined the independence of the police investigation, or misled the officers into not conducting an investigation.
- h) The prosecution was not terminated in Mr. Kastia's favour. He chose to plead guilty to assault, for which he received a sentence of time served, and two years' probation. Although I recognize his position that he pled guilty to avoid having to pay additional legal fees, he does

not deny engaging in a physical fight with Mr. Kristensen and choking him.

- i) Mr. Kastia has provided no evidence to establish that there are relevant documents in the possession of the Ministry of the Attorney General or other third parties that have not yet been produced, which he requires to prove his case.
- j) Mr. Kastia has provided no evidence to establish why having him criminally charged instead of Mr. Kristensen made it less likely for Mr. Pilz to discover that Ms. Ahlgren had engaged in an affair with Mr. Kristensen during her relationship with Mr. Pilz. Mr. Kastia has therefore not established a reliable reason as to why Ms. Ahlgren wished for Mr. Kastia to be criminally prosecuted.

Conclusion

[76] Mr. Kastia's motion to set aside the January 20, 2025 order of the registrar dismissing his action is dismissed. Mr. Kastia failed to follow the October 30, 2023 order of Justice Mills to file his trial record by September 30, 2024. He could have brought a motion prior to that date seeking another extension to file the trial record,

but he did not do so. There was a long history of delay in this matter leading up to September 30, 2024, which made Justice Mills' order all the more necessary.

[77] Ms. Ahlgren's motion in the alternative to have Mr. Kastia's action dismissed for his alleged failure to produce undertakings was not successful, but this is immaterial since Mr. Kastia's motion to set aside the administrative dismissal was not successful.

[78] Even if I had allowed Mr. Kastia's motion to set aside the registrar's order, I would have dismissed his action against Ms. Ahlgren for malicious prosecution as having no chance of success.

[79] It is not surprising that Mr. Kastia suffered distress during, and after, his incarceration. But it was not Ms. Ahlgren who laid the charges, nor was it she who chose to incarcerate Mr. Kastia for seventeen days after his arrest.

[80] Although Ms. Ahlgren's initial report to the police may have contained inaccuracies, there is no doubt that Mr. Kastia broke the front door latch to gain entry to the home, and subsequently injured Mr. Kristensen. Mr. Kastia pled guilty to assault. These facts justify the decision of the police to lay the charges.

Costs

[81] Ms. Ahlgren was successful in her motion to have Mr. Kastia's claim dismissed. She is presumptively entitled to costs. It is recognized, however, that she did not succeed on all of her alternative arguments. This is a factor that will impact the costs ordered for the motion, but will not alter the costs ordered for the overall action.

[82] The parties are strongly encouraged to agree upon costs. In the event that the parties are unable to do so, Ms. Ahlgren may serve and file a cost submission by January 15, 2026. Mr. Kastia may serve and file a responding cost submissions by January 22 2026. All cost submissions shall be no longer than four pages double-spaced, and shall be sent to my attention at scj.csj.genreal.brampton@ontario.ca.

Wilkinson J.

Released: January 7, 2026

CITATION: Kastia v. Ahlgren, 2026 ONSC 146
COURT FILE NO.: CV-16-148
DATE: 2026 01 07

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

Steve Paul Kastia

Plaintiff

- and -

Gwendolyn Ahlgren

Defendant

REASONS FOR JUDGMENT

Wilkinson J.

Released: January 7, 2026