

Federal Court of Appeal



Cour d'appel fédérale

Date: 20260313

Docket: A-32-25

Citation: 2026 FCA 52

**CORAM: WEBB J.A.
BIRINGER J.A.
WALKER J.A.**

BETWEEN:

NAHLA MOHAMAD JAWAD

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Montréal, Quebec, on March 9, 2026.

Judgment delivered at Ottawa, Ontario, on March 13, 2026.

REASONS FOR JUDGMENT BY:

BIRINGER J.A.

CONCURRED IN BY:

**WEBB J.A.
WALKER J.A.**

Federal Court of Appeal



Cour d'appel fédérale

Date: 20260313

Docket: A-32-25

Citation: 2026 FCA 52

**CORAM: WEBB J.A.
BIRINGER J.A.
WALKER J.A.**

BETWEEN:

NAHLA MOHAMAD JAWAD

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

REASONS FOR JUDGMENT

BIRINGER J.A.

[1] This is an appeal from an order of the Federal Court dated January 14, 2025 dismissing the appellant's request for an extension of time to file a motion for reconsideration: *Jawad v. Attorney General of Canada* (14 January 2025), Ottawa T-2339-23 & T-2341-23 (F.C.) (January 2025 Order).

[2] The motion for reconsideration related to an order of the Federal Court dated September 24, 2024 dismissing the appellant’s motion for an extension of time to serve and file the applicant’s record in a judicial review proceeding and permission to file additional affidavit evidence: *Jawad v. Attorney General of Canada* (24 September 2024), Ottawa T-2339-23 & T-2341-23 (F.C.) (September 2024 Order). According to the court file, the Federal Court Registry sent the order to the appellant’s email address on September 24, 2024. However, the appellant claims that she did not receive the order until she was handed a copy in person at the Registry counter on October 28, 2024.

[3] Rule 397(1) of the *Federal Courts Rules*, S.O.R./98-106 provides that a motion to reconsider an order must be filed within “10 days after the making of an order, or within such other time as the Court may allow”. The appellant filed the motion for reconsideration on November 12, 2024, after the deadline.

[4] To be granted an extension of time, the moving party must establish: (1) a continuing intention to pursue the matter; (2) that the matter has merit; (3) that no prejudice arises from the delay; and (4) a reasonable explanation for the delay: *Canada (Attorney General) v. Hennelly*, 1999 CanLII 8190 at para. 3 (F.C.A.) [*Hennelly*]; *Greenblue Urban North America Inc. v. Deeprout Green Infrastructure, LLC*, 2024 FCA 19 at paras. 5–6.

[5] In the January 2025 Order, the Federal Court judge found that the appellant had not demonstrated that she had failed to receive the September 2024 Order on September 24, 2024.

The Federal Court judge also concluded that the appellant had not established any of the *Hennelly* criteria and dismissed the motion for an extension of time.

[6] On May 28, 2025, the appellant filed a motion for an extension of time to appeal the September 2024 Order to this Court. That motion was dismissed by order dated June 24, 2025, and a motion for reconsideration of that order was dismissed on September 2, 2025: *Jawad v. Attorney General of Canada* (24 June & 2 September 2025), Ottawa 25-A-21 (F.C.A.).

[7] In her motion for an extension of time to appeal the September 2024 Order, the appellant submitted that the *Hennelly* criteria for granting an extension of time were satisfied. She maintained that she intended to pursue the appeal but did not receive the September 2024 Order until October 28, 2024, and that the Registry in Montréal was closed when she attempted to file the motion materials on November 7, 2024. She also submitted that the appeal had merit and that there was no prejudice to the respondent. Applying the *Hennelly* criteria, this Court held that it would not be in the interests of justice to grant an extension of time to appeal the September 2024 Order.

[8] On this appeal, the appellant makes the same arguments on her intention to pursue the motion for reconsideration as she made at the Federal Court and to this Court on her motion for an extension of time to appeal the September 2024 Order. The appellant also submits, as she did before the Federal Court, that the reconsideration motion has merit and that there is no prejudice to the respondent. The Federal Court considered these arguments and rejected them in the January 2025 Order.

[9] Granting an extension of time is a discretionary decision, subject to considerable deference on appeal. We are not permitted to redo the motion that was decided by the Federal Court judge. Unless an extricable question of law can be identified, which is reviewed on a standard of correctness, the Federal Court's order is reviewed on a standard of palpable and overriding error: *Qualizza v. Canada*, 2025 FCA 222 at para. 9; *Hospira Healthcare Corporation v. Kennedy Institute of Rheumatology*, 2016 FCA 215 at para. 79; *Canada (Transportation Safety Board) v. Carroll Byrne*, 2022 SCC 48 at para. 41.

[10] To identify a palpable and overriding error, it is not enough to disagree with the Federal Court's interpretation of the evidence: *Nelson (City) v. Mowatt*, 2017 SCC 8 at para. 38. To be palpable, an error must be truly obvious. To be overriding, an error must affect the core of the outcome of the case: *Mahjoub v. Canada (Citizenship and Immigration)*, 2017 FCA 157 at paras. 61–62; *Canada v. South Yukon Forest Corporation*, 2012 FCA 165 at para. 46, cited with approval in *Benhaim v. St-Germain*, 2016 SCC 48 at para. 38.

[11] Applying this standard of review, the appellant has not demonstrated an error in the January 2025 Order justifying our intervention.

[12] The appellant has not shown that the motion judge made a palpable and overriding error in concluding that the September 2024 Order was received the day it was issued. Nor has the appellant shown that the motion judge made a palpable and overriding error in concluding that she had not sufficiently justified the elements necessary for an extension of time: *Viridi v. Canada (Minister of National Revenue)*, 2006 FCA 38 at paras. 2–3.

[13] The appellant did not establish that the proposed motion for reconsideration had merit—a prerequisite to granting an extension of time under *Hennelly*. While not expressly addressed in the January 2025 Order, the appellant was given an opportunity to make submissions on this issue at the hearing, and was unable to identify any matter which had been overlooked or omitted by the motion judge in the September 2024 Order: *Federal Courts Rules*, r. 397(1)(b).

[14] Therefore, the appeal will be dismissed. Although the respondent seeks costs, none will be awarded.

“Monica Biringer”

J.A.

“I agree.

Wyman W. Webb J.A.”

“I agree.

Elizabeth Walker J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-32-25

STYLE OF CAUSE: NAHLA MOHAMAD JAWAD v.
ATTORNEY GENERAL OF
CANADA

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: MARCH 9, 2026

REASONS FOR JUDGMENT BY: BIRINGER J.A.

CONCURRED IN BY: WEBB J.A.
WALKER J.A.

DATED: MARCH 13, 2026

APPEARANCES:

Nahla Mohamad Jawad FOR THE APPELLANT
ON THEIR OWN BEHALF

Christian Lemay FOR THE RESPONDENT
Adam Al Ahmad

SOLICITORS OF RECORD:

Marie-Josée Hogue FOR THE RESPONDENT
Deputy Attorney General of Canada