

**SUPERIOR COURT OF JUSTICE – ONTARIO
DIVISIONAL COURT**

RE: His Majesty the King Respondent

- and -

Gary Curtis Appellant

BEFORE: L. Brownstone J.

COUNSEL: Gary Curtis on his own behalf

Ananthan Sinnadurai, for the respondent

HEARD: In writing

ENDORSEMENT

[1] I directed the registrar to give notice to the appellant in Form 2.1A that the court is considering making an order under r. 2.1.01(2). The registrar provided that notice on January 16, 2026, and invited written submissions from the appellant as to why the proceeding should not be dismissed.

[2] Mr. Curtis appears to be abandoning the proceeding in this court. He has asked that the court transfer the proceeding to the Superior Court.

[3] For the following reasons, in the event I have misinterpreted Mr. Curtis’s intention to abandon the proceedings in this court, I have determined that the appeal should be dismissed as frivolous, vexatious, or an abuse of process. I do not order a transfer of the proceedings to the Superior Court.

[4] Rule 2.1.01(1) provides as follows:

The court may, on its own initiative, stay or dismiss a proceeding if the proceeding appears on its face to be frivolous or vexatious or otherwise an abuse of the process of the court.

[5] This rule is not for “close calls”. The jurisprudence is clear that the rule is a blunt instrument. The frivolous, vexations, or abusive nature of the proceeding should be apparent on the face of the proceeding: *Tewari v. Sekhorn*, 2024 ONCA 123 at para. 5. The rule allows the motion judge to perform a gatekeeping function. It is to be robustly applied to weed out, in a

summary manner, litigation that is clearly frivolous, vexatious, or an abuse of process: *Scaduto v. Law Society of Upper Canada*, 2015 ONCA 733 at paras. 8 and 12.

[6] The appellant's notice of appeal and amended notice of appeal ask that this court set aside an order of Justice Bloomenfeld of the Ontario Court of Justice dated October 31, 2025. The notices of appeal state that the basis for the Divisional Court's jurisdiction is s. 19(2) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 and the fact that the order appealed from is a final order of a judge of the Ontario Court of Justice.

[7] Mr. Curtis was advised that the court was considering dismissing the appeal under rule 2.1. He was advised that I directed as follows:

Mr. Curtis has initiated an appeal from an order a Justice of the Ontario Court of Justice. Based on the notice of appeal, I am concerned this appeal is frivolous, vexatious or an abuse of process because it falls outside the jurisdiction of this court. Mr. Curtis will have 15 days to provide a response of not more than ten pages to the notice. He is asked to address the court's concern that it does not have jurisdiction and to ensure the Court has a full copy of Justice Bloomenfeld's decision and reasons.

[8] Mr. Curtis responded immediately as follows:

The Appellant filed an amended Notice of Appeal weeks ago, as there was clerical errors in the original one.(See attached). The Divisional Court, which is part of the Superior Court does have jurisdiction to hear this matter.

If the Respondent believes otherwise, they must bring a motion before the Divisional Court for lack of jurisdiction, it cannot be brought as a Rule 2.1.

Therefore, the Appellant is completely against the Rule 2.1 and ask that this process be cancelled and a Case Conference be set to address this issue.

I will be away for the next two weeks and cannot respond to this Rule 2.1 in 15 days. So please put this on cancel this or put this on hold and canvass future dates for a case conference please. Please let me know today January 16, 2026 as soon as possible.

[9] An amended notice of appeal was enclosed. In response, Mr. Curtis was advised that the rule 2.1 notice was not cancelled and he was to provide his submissions by way of response to that notice. Mr. Curtis responded with further objections to the process and a request for a case conference. He was provided with my direction that "[t]he court will not engage in further correspondence about this. You may present all your arguments in your response to the 2.1 notice sent by the court by the deadline set by the court." After further correspondence, the court advised Mr. Curtis on January 19 that he was granted an extension until February 27, 2026, to provide his submissions.

[10] On February 20, 2026, the court received the following communication from Mr. Curtis:

I am requesting an order from your Honour to transfer this file to the Ontario Superior Court of Justice and cancel this file with the Divisional Court, as it is more appropriate to have this matter dealt with in the Ontario Superior Court of Justice. The court staff gave the wrong information as the Divisional Court, even though it is part of the Ontario Superior Court of Justice, it is a separate court. This is not a response to the Rule 2.1 as that is now moot.

Therefore, please issue the order to transfer this file to the Ontario Superior Court by February 24, 2026, as soon as possible, as this is an urgent request.

[11] The court asked for Ontario's response to this request, and noted that the court still had not been provided with the underlying decision from which the appeal is sought to be taken, despite its request.

[12] Ontario objected to Mr. Curtis's request to transfer the proceedings and provided the court with Justice Bloomenfeld's decision. Ontario agreed that the Superior Court is the appropriate forum for the appeal, but noted the appeal is to be pursued in accordance with the *Criminal Code*, the *Criminal Proceedings Rules of the Superior Court*, the Consolidated Practice Direction – Toronto Region and the Consolidated Provincial Practice Direction for Criminal Proceedings. Ontario's position was that Mr. Curtis should not be permitted to circumvent these requirements, with which he had failed to comply, by seeking a transfer to the Superior Court. Further, "given the apparent novelty of a transfer of this nature, it is likely that any transfer will create unanticipated practical and logistical issues for the Superior Court." Ontario's view is that this court should dismiss the appeal for lack of jurisdiction, and Mr. Curtis may recommence appropriate proceedings in the correct venue.

[13] Mr. Curtis disagreed with these submissions and reiterated his request that I transfer the proceedings.

[14] I do not find that a transfer is appropriate for the reasons outlined by Ontario. I find the appeal to this court should be dismissed as frivolous, vexatious, or an abuse of process. All parties agree that the Divisional Court is without jurisdiction. The proper course is for Mr. Curtis to bring his proceeding in accordance with the applicable rules, and to seek any extension of time that may be required. Mr. Curtis is, of course, free to refer to his commencement of proceedings in this court in explaining the delay, should he deem it appropriate to do so. But any determination about new proceedings should be made by the court having proper jurisdiction over the matter.

[15] For these reasons, the appeal to the Divisional Court is dismissed as frivolous, vexatious, or an abuse of process as this court is clearly without jurisdiction.

Brownstone J.

Date: March 6, 2026