In the Court of Appeal of Alberta

Citation: Basaraba v College of Chiropractors of Alberta, 2026 ABCA 128

Date: 20260423
Docket: 2503-0220AC
Registry: Edmonton

Between:

Dr. Basaraba

Applicant

- and -

College of Chiropractors of Alberta

Respondent

Reasons for Decision of
The Honourable Justice Tamara Friesen

Application to Restore Appeal

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Introduction

[1] Dr Bradley Basaraba applies to restore an appeal which was deemed abandoned, pursuant to rr 14.64(a) and 14.65(3)(b) of the *Alberta Rules of Court*, Alta Reg 124/2010.

[2] The applicant practised as a chiropractor at his clinic in downtown Edmonton. The respondent, the College of Chiropractors of Alberta, imposed an interim suspension pursuant to s 65(1)(b) of the *Health Professions Act*, RSA 2000, c H-7 [*HPA*] pending resolution of several disciplinary complaints.

[3] The applicant applied to the Alberta Court of King's Bench for a stay of the interim suspension, as permitted under s 65(2) of the *HPA*. On October 1, 2025, the chambers judge denied the stay. She reasoned that granting the stay would result in greater harm to the College and its mandate to protect the public, compared to the harm the applicant would suffer from refusing the stay: ***Basaraba v College of Chiropractors of Alberta***, 2025 ABKB 572 at para 134.

[4] On October 30, 2025, the applicant filed his notice of appeal, within the one-month deadline per r 14.8(2)(a)(iii). The notice stated the appeal was to be managed through the fast track process per r 14.14 of the *Rules*. The case management officer wrote to the parties later that day, confirming the appeal had been granted fast track status. The letter noted that the notice did not include a copy of the judgment under appeal as required by the *Rules*. The letter also provided information about how to determine filing deadlines and warned about consequences flowing from a failure to meet requirements and deadlines. Specifically: a party pursuing a fast track appeal has one month from the date of filing the notice of appeal to file and serve the appeal record and transcripts, per r 14.16(3)(a). The Registrar *must* strike an appeal if the appellant has failed to file the appeal record in time, per r 14.64(a). In this case, that meant that the appeal record had to be filed by November 30, 2025.

[5] On December 1, 2025, the Registrar struck the appeal as the appeal record had not yet been filed. The Certificate of Registrar – Late Appeal Record, entered into the court record management system, attached further instructions on how to go about applying to restore the appeal, noting that per rr 14.47 and 14.65 the application must be made and completed within three months of being struck or it would be deemed abandoned. In this case, the deadline for making the application was March 1, 2026.

[6] No application to restore was made, and on March 3, 2026, the appeal was deemed abandoned per a "Report of Civil Appeal".

[7] On March 11, 2026, the applicant filed his application to restore the appeal, to be heard by a single appeal judge on April 1, 2026.

Legal Test

[8] In deciding whether to exercise discretion to restore an appeal this Court will consider the following factors:

a) whether the appeal has arguable merit;

b) the reason for the defect or delay that caused the appeal to be struck;

c) whether the applicant acted promptly in taking steps to cure the defect and have the appeal restored;

d) whether the applicant intended to proceed with the appeal during the period of delay; and

e) whether the respondents would suffer any prejudice if the appeal is restored.

Raymond James Ltd v Kostic, 2025 ABCA 296 at para 7 [***Raymond James***]; ***Prochazka v Alberta (Maintenance Enforcement Program)***, 2014 ABCA 448 at para 4 [***Prochazka***].

[9] The Court considers these factors when determining whether it is in the interests of justice to restore the appeal: ***Raymond James*** at para 7, citing ***Prairie West*** at para 10; ***Prochazka*** at para 4. While no single factor is determinative, a lack of arguable merit is often fatal to an application to restore an appeal: ***Raymond James*** at para 7; ***Bank of Montreal v McLennan***, 2024 ABCA 410 at para 16; ***Nkusi v Patricia C. Tiffen Professional Corporation***, 2023 ABCA 272 at para 38; ***Holden v Holden***, 2022 ABCA 341 at paras 62, 87.

[10] When an appeal has been deemed abandoned, the Court will exercise its discretion to restore the appeal sparingly: ***Prairie West Homes Inc v Baraka Homes Ltd***, 2023 ABCA 256 at para 11 [***Prairie West***]; ***Allen v Alberta (Seniors and Community Supports***), 2015 ABCA 238 at para 5.

Parties' Positions

[11] The applicant says he has always intended to proceed with the appeal and the delays to date are due to exceptional personal circumstances, including medical and financial challenges linked to the interim suspension. As evidence, he provides various documents, including a letter dated September 26, 2025 from his family physician recommending he be excused from attending an upcoming hearing due to the medical issues described therein. He says he is not responsible for the delay in obtaining the transcripts, relying on what appears to be a chronological list of

unspecified email correspondence with the Alberta Justice and Solicitor General. He asserts that considering all the circumstances he has acted promptly. He argues his appeal has merit because a previous court set aside an earlier interim suspension, presumably adopting the reasons in that earlier decision as the basis for his proposed appeal: see ***Basaraba v College of Chiropractors***, 2025 ABKB 176.

[12] The respondent argues the applicant has provided general excuses in trying to explain the delay and that these do not amount to exceptional circumstances. Per this Court's decision in ***Wass v Wass***, 2020 ABCA 180 at para 32, "[t]he realities of everyday life cannot be an excuse" for missed deadlines. Moreover, the respondent argues the applicant failed to act promptly to restore his appeal, waiting more than 13 weeks to file and serve his application. The hearing itself took place on April 1, 2026 – one month after the deadline requiring the applicant to appear in Court. The delay shows a lack of a *bona fide* intention to appeal and prejudices the respondent. Finally, the respondent submits the applicant has not established any arguable merit to the appeal. The earlier interim suspension was set aside based on a lack of procedural fairness which was remedied in the second suspension proceeding and did not factor in to the second decision. It is therefore irrelevant to the proposed appeal, and no other grounds for appeal have been provided.

Decision

[13] I accept that the applicant intended to continue with the appeal despite having failed to follow the prescribed deadlines. I am less convinced he had a reasonable excuse for failing to follow those deadlines, although I appreciate he is currently facing significant and real health and financial challenges. I am not convinced he acted reasonably promptly, given that the reason for the appeal being struck was a failure to file the appeal record, and the reason for the appeal being deemed abandoned was a failure to file an application to restore within the allotted time period. The matter was designated a fast track appeal. At every step, this Court's registrar was diligent in providing him with the information he required to proceed with the appeal within the timelines required by the *Rules*. While self-represented litigants are not expected to meet the same practice standards as lawyers, they are still required to know and follow the procedures and timelines set out in the *Rules*: see rule 1.1(2), ***Xu v Ma***, 2024 ABCA 29 at para 16 and ***Morrison v Galvanic Applied Sciences Inc***, 2019 ABCA 207 at paras 26-27.

[14] In any event, even if I accept that the applicant has reasonable excuse for the delay, and in the circumstances, acted reasonably promptly in applying to restore the abandoned appeal, the application still fails because the appeal itself stands no reasonable prospect of success. The applicant points to the earlier interim suspension in challenging the lawfulness of the current interim suspension, baldly asserting the chambers judge committed a "palpable and overriding error" in reaching a different conclusion. The earlier suspension was overturned due to procedural unfairness; specifically, the College's failure to provide the applicant with sufficient particulars of the disciplinary charges he was facing. The issue of particularization played no role in the second stay proceeding, which focussed quite properly on assessing the facts through the framework of

the tripartite test for a stay set out by the Supreme Court of Canada in ***RJR-MacDonald Inc v Canada (Attorney General)***, 1994 CanLII 117 (SCC), [1994] 1 SCR 311: see also ***Irwin v Alberta Veterinary Medical Association***, 2015 ABCA 176 at para 4.

[15] In rendering his decision on the earlier interim suspension, the first chambers judge specifically stated that "[t]he Complaints Director is at liberty to submit another request for an interim suspension of the Applicant's permit to a different 'person or committee designated by the council' pursuant to s. 65 of the *HPA*." If the applicant's proposed argument is more broadly understood as a complaint about fairness, there was nothing inherently unfair about the College pursuing and obtaining a subsequent interim suspension.

[16] For all of these reasons, the application to restore the abandoned appeal is dismissed.

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

Application heard on April 1, 2026

Reasons filed at Edmonton, Alberta
this 23rd day of April, 2026

Friesen J.A.

Appearances:

Applicant B. Basaraba

B. Maxston, KC (no appearance)
T.C. Maxston
for the Respondent