COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Jeffries v. Bayfield Mortgage Investment Corp.,*
2026 BCCA 66

Date: 20260205
Docket: CA49772

2026 BCCA 66 (CanLII)

Between:

David Brian Jeffries

Appellant
(Respondent)

And

Bayfield Mortgage Investment Corp.

Respondent
(Petitioner)

Before: The Honourable Madam Justice Fisher
The Honourable Justice Edelmann
The Honourable Justice Francis

On an application to vary: An Order of the Court of Appeal for British Columbia, dated September 16, 2025 (*Jeffries v. Bayfield Mortgage Investment Corp.*, 2025 BCCA 397, Vancouver Docket CA49772).

Oral Reasons for Judgment

The Appellant, appearing in person:	D.B. Jeffries
Counsel for the Respondent:	T.S. Fowler
Place and Date of Hearing:	Vancouver, British Columbia February 5, 2026
Place and Date of Judgment:	Vancouver, British Columbia February 5, 2026

Summary:

This is an application to vary the decision of a chambers judge. The judge dismissed the appellant's application to remove his appeal from the inactive list.

Held: Application dismissed. The chambers judge was justified in declining to remove the appeal from the inactive list given the lack of merit in the underlying appeal and the length of time during which the appellant took no steps to move the appeal forward.

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[1] **EDELMANN J.A.**: This is an application to vary a decision of a justice in chambers dismissing the appellant's application to remove his appeal from the inactive list. In an application to vary an order of a single justice, the division of the Court must ask whether the chambers judge was wrong in law, wrong in principle, or misconceived the facts: see *Haldorson v. Coquitlam (City)*, 2000 BCCA 672.

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[2] The procedural background was set out by Justice Dickson in her decision:

> [3] Bayfield loaned money to Mr. Jeffries in relation to his purchase of real property. After there was a default on the mortgage, Bayfield commenced foreclosure proceedings and obtained an order *nisi* which provided for a possibility of redemption should a payment of $579,858.20 be made.
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> [4] Mr. Jeffries provided Bayfield with what he described as a "Bonded Bill of Exchange Order," stating that the Secretary of the United States Treasury must credit his Bayfield account with the amount due to redeem the mortgage. Bayfield did not accept this document, or any other documents provided by Mr. Jeffries, as valid payment.
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> [5] Bayfield eventually sold the property. A contract of purchase and sale of the property formerly held by Mr. Jeffries was entered into January 2, 2024. A vesting order was issued by an associate judge on February 8, 2024.
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> [6] Mr. Jeffries appealed the issuance of the vesting order to the Supreme Court of British Columbia on the ground that there was a redemption of the mortgage and the "Bonded Bill of Exchange Order" was valid payment.
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> [7] In reasons delivered on February 23, 2024, the chambers judge dismissed the appeal. The chambers judge found no legislative or jurisprudential authority for the proposition put forward by Mr. Jeffries, namely, that the "Bonded Bill of Exchange Order" document constitutes valid payment of a debt.
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> [8] On March 25, 2024, Mr. Jeffries filed a notice of appeal. He appealed the order of the chambers judge to this Court on the basis that the "Bonded Bill of Exchange Order" is a lawful payment and that the order for sale of the property should have been stayed. Bayfield advises that until recently they were not served with the notice of appeal.
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> [9] On March 25, 2024, Mr. Jeffries also applied for no fee status. On April 26, 2024, Justice Fenlon dismissed the application on the basis that the "appeal is bound to fail". In particular, she concluded there was no basis for finding the document Mr. Jeffries tendered to Bayfield was lawful money of Canada that could constitute payment of the mortgage debt: No Fee Application Decision at para. 8.
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> [10] On March 26, 2025, the appeal was placed in the inactive list when a notice of hearing of appeal was not filed within one year of filing the notice of

> appeal. The appeal is scheduled to be dismissed as abandoned on September 22, 2025.
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> [11] On September 3, 2025, Mr. Jeffries filed an application to remove the appeal from the inactive list.

[3] The justice set out the applicable legal framework to removing cases from the inactive list:

> [13] An appeal is placed on the inactive list if a notice of hearing of appeal is not filed within one year after the notice of appeal was filed for the appeal or 60 days after the appeal is ready for hearing: *Court of Appeal Rules*, B.C. Reg. 120/2022, Rule 50(1).
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> [14] If an appeal remains on the inactive list for 180 consecutive days, it stands dismissed as abandoned on the 181st day: Rule 51(1).
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> [15] The applicant bears the onus of establishing a good reason for removing an appeal from the inactive list: *Galiano Conservancy Assn. v. British Columbia (Ministry of Transportation and Highways)*, 40 B.C.L.R. (3d) 171 at 176, 1997 CanLII 4128 (C.A.).
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> [16] This Court may remove appeals from the inactive list: Rule 50(3). There is no rigid test to reactivate an appeal, but the following factors are relevant:
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> a) The extent of the delay;
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> b) The explanation for the delay;
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> c) The existence of any prejudice arising from the delay; and
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> d) The likelihood of success of appeal.
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> *Moore v. Cheung*, 2025 BCCA 97 at para. 11, citing *Kar Recovery, Ltd. v. KDA*, 2004 BCCA 503 at paras. 23–24.
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> [17] The overriding consideration is the interests of justice: *Grosz v. Royal Trust Corporation of Canada*, 2022 BCCA 57 at para. 7.
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> [18] Weak prospects of success on the appeal will be very significant where other factors do not support the application to reactivate the appeal: *Hung v. Li*, 2022 BCCA 395 at para. 53, citing *White v. White*, 2005 BCCA 469 at para. 27.
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> [19] In some cases, self-represented litigants are not held to the same standard as members of the Bar. Nevertheless, they must still have an acceptable explanation for the delay and establish a good reason for reactivating the appeal: *Faro (Town) v. Knapp*, 2012 YKCA 13 at para. 52.

[4] Justice Dickson then considered the factors in the context of this appeal. She began by noting that it had been 18 months since the notice of appeal was filed in March 2024. Mr. Jeffries' no-fee application was dismissed in April 2024, some

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16 months during which he took no further steps to pursue his appeal until he brought the application at issue. She noted Mr. Jeffries did not provide an explanation for the delay. Mr. Jeffries does not point to any errors in these conclusions.

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[5] Justice Dickson then noted that in dismissing Mr. Jeffries' application for a no-fee order, Justice Fenlon had concluded that Mr. Jeffries' appeal was bound to fail:

> [8] Having reviewed the reasons of Justice Brongers and the notice of appeal, I am of the view that the appeal is bound to fail. There is no basis for the assertion that the document Mr. Jeffries tendered to Bayfield was lawful money of Canada that would constitute payment of the mortgage debt. As for the stay of the sale, the property has already been vested.

[6] Based on the same record, Justice Dickson came to the same conclusion that the appeal lacks apparent merit and has no realistic prospect of success.

[7] Although the materials before us are somewhat challenging to parse as they are replete with pseudo-legal language, the core of Mr. Jeffries' argument is the proposition that a document entitled "Bonded Bill of Exchange Order" that he created himself constitutes a valid payment of a debt. The conclusion of Justice Brongers on this issue is set out in the following paragraphs of his decision:

> [10] […] I have considered the Appellant's argument that his Bonded Bill of Exchange Order and the other related documents provided to Bayfield were a valid form of payment in accordance with the *Bills of Exchange Act*, R.S.C. 1985, c. 8-4, as referenced by the Saskatchewan Court of Appeal in *Fauser Energy Inc. v. Skjerven*, 2019 SKCA 81.
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> [11] However, neither this legislation nor this jurisprudence provides support for the proposition that a document demanding the United States Secretary of the Treasury to credit an individual's account with a Canadian financial institution constitutes valid payment of a debt. In the absence of clear legislative or jurisprudential authority, it cannot be argued that Associate Judge Vos clearly had to deny Bayfield's application. It should also be noted that it is the Appellant that bears the burden to show that the Associate Judge was wrong, not Bayfield's burden to show that he was right.

[8] I am not persuaded that Justice Dickson, Justice Fenlon, Justice Brongers or the associate judge erred in their assessments of the lack of merit in the core assertion underlying the appeal. In my view, the analysis set out by Justice Brongers is clear, coherent and persuasive. The justice was more than justified in concluding that the underlying appeal has no merit.

[9] Given the length of delay, its unexplained nature and the lack of merit in the appeal, there is no basis on which to impugn the conclusion by the chambers judge that it was not in the interests of justice to remove the appeal from the inactive list.

[10] I would dismiss the application to vary the decision of Justice Dickson.

[11] **FISHER J.A.**: I agree.

[12] **FRANCIS J.A.**: I agree.

[13] **FISHER J.A.**: The application to vary is dismissed.

“The Honourable Justice Edelmann”

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