

# COURT OF APPEAL FOR ONTARIO

CITATION: Sidiqi v. Ahmadzai, 2023 ONCA 213

DATE: 20230327

DOCKET: M54131 (C70932)

Pardu J.A. (Motion Judge)

BETWEEN

Ahmad Walid Sidiqi

Applicant

(Appellant/Responding Party)

and

Hosna Ahmadzai

Respondent

(Respondent/Moving Party)

Ahmad Walid Sidiqi, acting in person

Ron Paritzky, for the moving party

Heard: March 24, 2023, by video conference

## ENDORSEMENT

[1] The moving party seeks security for costs of the appeal, in the sum of \$25,000, and for the costs of the trial, in the sum of \$18,000.

[2] The appellant is seeking to overturn a custody decision of the Superior Court of Justice, dated June 28, 2022, which also permitted the respondent mother to move to the Richmond Hill area with her current husband and her two children from that marriage.

[3] This court refused a motion for a stay of that decision pending the hearing of the appeal on August 19, 2022. Costs were awarded in favour of the respondent, in the sum of \$2,000, which remain unpaid. The appellant refuses to approve the draft order made on that motion.

[4] Rule 56.01(c) provides that security for costs may be granted where the moving party has an order for costs that remains unpaid.

[5] Rule 61.06 provides that an appellate court may make an order for costs of the proceedings and of the appeal where an order for costs could be made against an appellant under Rule 56.01 or where “for other good reason, security for costs should be ordered.”

[6] Here, the most significant factor is that the appellant refuses to pay any of the child support ordered. The arrears, as of this month, are \$20,048. This is inconsistent with his professed concern for the best interests of the child. Over a six-month period, from May to October 2022, he was incurring credit card bills averaging over \$14,000 each month. He claims that he is borrowing thousands each month from family members to sustain his living expenses. He is on title with his brother and resides in a recently acquired home, subject to a charge in the sum of \$1,575,000. He claims that he does not have a beneficial interest in the property. He is self-employed as a real estate agent and has failed to comply with undertakings to disclose his assets. He drives a new Lexus sports car.

[7] None of this is denied by the appellant, nor explained.

[8] I recognize that caution must be exercised in requiring security where an appeal concerns the best interests of a child.

[9] I am satisfied that, in this case, given the unpaid costs and for other good reasons described above, security for the costs of the appeal should be granted. The respondent is ordered to pay \$20,000 into court as security for the costs of the appeal. Should he fail to do so within 30 days of the release of this endorsement to the parties, upon filing of an affidavit by the appellant confirming that payment has not been made, his appeal may be placed before a panel of this court for dismissal as an abandoned appeal, without the necessity of appearance by counsel for the respondent on the appeal and without further notice to the appellant.

[10] I am not satisfied that security for costs for the trial should be awarded at this stage. There were legitimate issues that had to be litigated concerning the best interests of the child.

[11] The time for delivery of the respondent's factum and compendium is extended to 45 days following the earlier of the date that the respondent posts security and the date by which security is to be posted by the appellant.

[12] Costs of this motion, fixed at \$2,000, are awarded to the moving party.

"G. Pardu J.A."