

COURT OF APPEAL FOR ONTARIO

CITATION: Clarke v. Denyes, 2026 ONCA 143

DATE: 20260227

DOCKET: M56300 (COA-25-OM-0273)

Trotter, Monahan and Dawe JJ.A.

BETWEEN

Harry James Clarke

Applicant
(Respondent/Responding Party)

and

Melissa Joy Denyes

Respondent
(Appellant/Moving Party)

Melissa Joy Denyes, acting in person

Julie Stanchieri and David Rappaport, for the respondent/responding party

Heard: in writing

On review of the order of Justice Grant Huscroft of the Court of Appeal for Ontario,
dated August 28, 2025.

REASONS FOR DECISION

[1] The moving party seeks to set aside the order of the motion judge denying her motion for an extension of time to file a Notice of Appeal.

[2] This proceeding arises from a trial decision involving high-conflict family litigation. The respondent was successful on nearly all major issues. The trial judge awarded costs to the respondent in the amount of \$400,000.

[3] A panel of this court may interfere with an order under s. 7(5) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, if the motion judge failed to identify the applicable legal principles, erred in principle, or reached an unreasonable result: *Weidenfeld v. Weidenfeld*, 2022 ONCA 860, at para. 11, leave to appeal refused, [2023] S.C.C.A. No. 27.

[4] The motion judge applied the correct legal test and his discretionary decision not to extend time to file a Notice of Appeal is entitled to deference. In reaching his decision, the motion judge recognized that “[t]he overarching consideration in cases affecting the rights of children is whether the extension of time would be in the children’s best interests”. See e.g., *Collins v. Tiveron*, 2024 ONCA 447, 2 R.F.L. (9th) 257, at para. 13.

[5] The moving party has not identified any error in principle in the motion judge’s analysis of the relevant considerations, particularly that the appeal has little merit, the significant five-month delay in filing the Notice of Appeal, and the continuing uncertainty over the parenting schedule that would be prejudicial to the children.

[6] The motion is dismissed with costs to the respondent in the amount of \$2,000, inclusive of taxes and disbursements.

“Gary Trotter J.A.”
“P.J. Monahan J.A.”
“J. Dawe J.A.”