COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Martin v. Riley,*
2024 BCCA 194

Date: 20240516
Docket: CA49685

Between:

Maria Melane Martin

Appellant
(Plaintiff)

And

Gillian Riley

Respondent
(Defendant)

Before: The Honourable Mr. Justice Harris
The Honourable Justice Griffin
The Honourable Justice Winteringham

On an application to vary: An order of the Court of Appeal for British Columbia, dated March 24, 2024 (*Martin v. Riley*, Vancouver Docket CA49685).

The Appellant, appearing in person:	M.M. Martin
Counsel for the Respondent:	B.J. Cabott S.M. Gallagher
Place and Date of Hearing:	Vancouver, British Columbia May 6, 2024
Place and Date of Judgment with Written Reasons to Follow:	Vancouver, British Columbia May 6, 2024
Place and Date of Written Reasons:	Vancouver, British Columbia May 16, 2024

Written Reasons by:
The Honourable Justice Griffin

Concurred in by:
The Honourable Mr. Justice Harris
The Honourable Justice Winteringham

Summary:

Ms. Martin applies for a review of an order denying her an extension of time to file an appeal. The crux of her proposed appeal is to challenge the dismissal of her action, alleging fraudulent court orders, and an order declaring her a vexatious litigant. Held: Application for review dismissed. The judge made no error in principle in concluding that Ms. Martin's appeal has no merit and it is not in the interests of justice to grant an extension of time.

Reasons for Judgment of the Honourable Justice Griffin:

[1] The appellant, Maria Martin, applies pursuant to s. 29 of the *Court of Appeal Act,* S.B.C. 2021, c. 6 [the *"CA Act"*] to vary the March 26, 2024 order of Justice Skolrood in chambers, denying her application for an extension of time to file an appeal.

[2] The respondent, Gillian Riley, opposes her application to vary.

[3] At the conclusion of the hearing of the application, we dismissed the application with reasons to follow. These are the reasons for the dismissal.

Background and Procedural History

[4] The underlying proceeding relates to a long-running dispute between Ms. Martin and Tangerine Bank, "Tangerine". Ms. Riley is the President and CEO of Tangerine. Ms. Martin has commenced many duplicative actions against Tangerine and Ms. Riley, in multiple court registries. I will attempt to summarize some of that litigation history, but I note that my summary is not comprehensive.

[5] Ms. Martin alleges that in June 2018 she became employed with a company called Global Capital Finance. Her job involved receiving money transfers into her account at Tangerine, withdrawing that money to purchase Bitcoin, and depositing that money into Bitcoin wallets.

[6] On July 4, 2018, a Tangerine employee spoke with Ms. Martin on the telephone and informed her that her account was being investigated due to

suspicions that the transfers made into the account pursuant to these duties were fraudulent.

[7] On October 19, 2018, Ms. Martin filed a notice of civil claim against Tangerine in the Chilliwack Supreme Court Registry seeking damages for defamation arising from the alleged communication of defamatory words from a Tangerine employee to her in that phone call (the "First Defamation Action"). Ms. Martin claimed that she was obliged to tell her employer that Tangerine was making these accusations, and she alleged her employment was terminated as a result.

[8] Ms. Martin brought multiple applications in the First Defamation Action. After multiple adjournments and dismissals of Ms. Martin's applications, Ms. Martin's application for judgment and Tangerine's application to strike were both heard by Justice Kirchner on December 14, 2021.

[9] Justice Kirchner orally pronounced an order dismissing the First Defamation Action, with reasons for judgment indexed at: 2021 BCSC 2545 (the "Kirchner J. Dismissal Order").

[10] On March 24, 2022, Ms. Martin applied to this Court for an extension of time to bring an appeal of the Kirchner J. Dismissal Order in the First Defamation Action. Justice Frankel heard and dismissed that application on the basis that the appeal had no merit.

[11] On April 29, 2022, Ms. Martin filed a notice of civil claim against Tangerine and Ms. Riley in the Vancouver Supreme Court Registry (the "Second Defamation Action"). In the Second Defamation Action, she sought damages for defamation arising from the same communication as in the First Defamation Action. Tangerine and Ms. Riley were never served with the Second Defamation Action. Ms. Martin applied for a sealing order in the Second Defamation Action. Justice Basran heard that application on November 3, 2022 and orally pronounced an order dismissing the Second Defamation Action on the basis that the claim had already been decided.

[12] On November 24, 2022, Ms. Martin filed a notice of civil claim against Tangerine and Ms. Riley in the Vancouver Supreme Court Registry seeking damages for the "wrongful act of possessing forged or fraudulent legal documents" (the "First Fraudulent Document Action"). Ms. Martin argued that the Kirchner J. Dismissal Order and other court orders and documents related to the dispute had been forged or fabricated by Tangerine and authorized by Ms. Riley.

[13] On that same day, Ms. Martin applied for a sealing order and substitutional service order pursuant to the First Fraudulent Document Action. Justice Baker heard that application, and orally pronounced judgment dismissing the application, striking the action and prohibiting Ms. Martin from commencing any further actions against Tangerine without leave of the court (the "Baker J. Dismissal Order").

[14] On December 28, 2022, Ms. Martin filed a notice of civil claim against Ms. Riley in the Victoria Supreme Court Registry (the "Second Fraudulent Document Action"). Her claims were almost identical to the First Fraudulent Document Action, except this time she named only Ms. Riley as a defendant. The present proceeding derives from this Second Fraudulent Document Action.

[15] On July 27, 2023, Ms. Riley applied for the following orders in the Second Fraudulent Document Action: an order striking the notice of civil claim pursuant to Rule 9-5 of the *Supreme Court Civil Rules*; an order declaring that the plaintiff is a vexatious litigant; an order that Ms. Martin be prohibited from initiating a legal proceeding in any court and filing materials in an existing legal proceeding without leave of the court; and special costs.

[16] On August 29, 2023, Justice G.C. Weatherill heard Ms. Riley's application alongside Ms. Martin's application seeking judgment in the Second Fraudulent Document Action and orally granted all the orders sought by Ms. Riley, with oral reasons for judgment indexed at: 2023 BCSC 1607 (the "Weatherill J. Dismissal Order").

[17] On October 29, 2023, Ms. Martin advised counsel for Ms. Riley that she had decided to appeal the Weatherill J. Dismissal Order. Counsel for Ms. Riley informed Ms. Martin that the time for filing the appeal had expired and made it clear to her that if she wished to proceed she would need to bring an application for an extension of time in chambers.

[18] On February 7, 2024, Ms. Martin informed counsel for Ms. Riley that she planned to file the notice of appeal as well as an application for leave to appeal and an application for an extension of time to appeal.

[19] On February 23, 2024, Ms. Martin filed her notice of appeal, application for leave to appeal and application for an extension of time.

[20] Justice Skolrood heard the applications on March 26, 2024. Giving oral reasons for judgment, he concluded that Ms. Martin did not require leave to appeal and he dismissed her application for an extension of time to appeal: *Martin v. Riley,* (26 March 2024), Vancouver CA49685 (B.C.C.A. Chambers). Ms. Martin applies to vary that order.

The Underlying Order under Review

[21] Justice Skolrood correctly set out the legal framework for an extension of time to commence an appeal as set out in *Davies v. C.I.B.C.* (1987), 15 B.C.L.R. (2d) 256 at 259–260, 1987 CanLII 2608 (C.A.). He found that Ms. Martin's application largely turned on the final two criteria in *Davies*: whether there was merit to the appeal; and whether it was in the interests of justice to grant an extension: para. 8.

[22] With regard to the first factor, Justice Skolrood concluded that Ms. Martin's proposed appeal does not meet the "relatively low" merits threshold: para. 11.

[23] Justice Skolrood further found that the allegations of fraudulent court orders were baseless, and allowing the appeal to proceed "would sap scarce judicial resources and extend protracted proceedings that have already gone on for far too long": para. 13. He concluded that it was not in the interests of justice to grant the

extension of time. Justice Skolrood dismissed the application and granted costs to Ms. Riley.

Analysis

[24] The standard of review on an application to vary the order of a single justice is highly deferential. It is not a rehearing of the original application, and merely challenging the exercise of discretion is insufficient. This Court will only interfere if the applicant demonstrates that the justice was wrong in law, wrong in principle, or misconceived the facts: *Deline v. Shecter,* 2024 BCCA 116 at paras. 21–22.

[25] Ms. Martin submits that Justice Skolrood denied her a fair hearing on the basis that he did not consider her evidence and arguments regarding the “illegality” of the lower court orders.

[26] Ms. Martin fails to acknowledge the fact that she does not have the right to litigate the same complaints over and over again. Ms. Martin’s submissions on appeal seek to challenge the authenticity of the Kirchner J. Dismissal Order, and that is the same argument that was advanced in the First Fraudulent Document Action and was dismissed in the Baker J. Dismissal Order. As such, the second action is a duplication and not permitted. There is no merit to it.

[27] In addition, as a matter of law, Ms. Martin’s underlying notice of civil claim complaining about the authenticity of court orders does not reveal any cause of action against Ms. Riley.

[28] Furthermore, Ms. Martin needs to understand the important point that an order is valid and enforceable from the moment it is pronounced by a judge, including when it is pronounced orally in the courtroom. It appears she was present in the courtroom when the judges made orders. While she wants to challenge the authenticity of the written form of orders, she does not take the position that the form of orders did not reflect what the judge actually pronounced.

[29] Ms. Martin also needs to recognize that an opposing party is entitled to rely on the authenticity of court orders obtained from the Court Registry, without needing to justify the legitimacy of the form of the court stamp or the electronic signature used on an order.

Formalizing Court Orders

[30] In this regard, I will briefly summarize the court rules, practice directions, administrative notices, and statutes that apply to the form and entry of court orders.

[31] Rule 13-1(1) of the *Supreme Court Civil Rules* provides how an order may be drawn up and approved, and that after it is approved, it must be left with a registrar to have the seal of the court affixed.

[32] British Columbia Supreme Court Practice Direction PD-26 provides that if the form of order submitted to the Registry for entry following an appearance in chambers corresponds to the clerk's notes and it is not otherwise questioned by the registrar, the registrar will sign and enter the order. If the registrar questions the draft order, it will be referred to the judge or associate judge before the order is entered. An order made after trial or following the issuance of written reasons for judgment will be approved by the judge or associate judge before the order is entered. An order arising from oral reasons may be signed by a registrar (even if the oral reasons are later transcribed).

[33] Rule 23-1(7) permits the registrar to appoint persons to sign court documents that otherwise require signature of the registrar. As a matter of practice, a number of court staff are usually appointed to do so, described as deputy district registrars.

[34] Also, British Columbia Supreme Court Administrative Notice AN-17 directs any party proposing to present an order to a presider for signature, to first present the draft order to the registry to be vetted, so as to avoid errors. It will then be vetted by a deputy district registrar and will be endorsed with the notation "Checked" to denote to the presider that it has been vetted.

[35] Section 11 of the *Electronic Transactions Act,* S.B.C. 2001 c. 10 [*ETA*], provides that if there is a requirement under law for the signature of a person, that requirement is satisfied by an electronic signature.

[36] Section 41.3(2) of the *Evidence Act,* R.S.B.C. 1996, c. 124 [*EA*] provides that if an electronic court document is accompanied by a secure electronic signature, that document is presumed, in the absence of evidence to the contrary, to have been signed by the person who is identified in, or can be identified through, the secure electronic signature.

[37] Section 3 of the *Electronic Court Documents Regulation*, B.C. Reg. 60/2005 provides the following in regards to secure electronic signatures:

> 3 (1) A record contained within an electronic court system and signed electronically by a person described in subsection (2) is a prescribed electronic record for the purpose of section 41.3 of the Act.
>
> (2) The persons who may electronically sign a record for the purpose of subsection (1) are the following:
>
> > (a) a person who exercises an adjudicative function in a court, if the record being signed relates to a matter in which the person has acted as adjudicator;
> >
> > (b) a clerk of a court, if the clerk is acting in the capacity of clerk in relation to the record being signed;
> >
> > …

[38] There are additional processes available to authenticate court orders for foreign jurisdictions: see for example, Rule 19-5 as well as the authentication process established by the Ministry of the Attorney General, OIC Administration Office BC Authentication program, pursuant to the *Convention Abolishing the Requirement of Legalisation for Foreign Public Documents,* 5 May 2023, Can. T.S. 2024 No. 2 (entered into force on 11 January 2024) [*Apostille Convention*]. Instructions for this process can be found by searching online at: Preparing B.C. Court Documents for Authentication - Province of British Columbia (gov.bc.ca).

[39] If a party wishes to check the authenticity of a court order presented by an opposing party, that party may choose to obtain a copy of the court order from the

relevant Court Registry. This can be done either electronically, by following the process through Court Services Online, or by attending in person at the Court Registry. If the copy obtained in this way matches what was previously provided, the party would know that the order was entered in the court file and is authentic.

[40] Furthermore, if a party wishes to question the content of a court order and to determine if it accurately reflects the order actually made by the judge at a hearing, they can do so in a number of ways. The *Sound Recording Regulations*, B.C. Reg. 249/78, pursuant to the *EA*, provide that all Supreme Court proceedings are to be sound recorded, and that recording is the official record of the proceeding: ss. 2, 6. There is a Supreme Court of British Columbia *Policy on Access to the Court Record* that sets out the process for obtaining access to the court record, including by attending the registry and listening to the digital recording of a proceeding, or viewing the courtroom clerk's log notes. A person may find this policy by searching the website www.bccourts.ca and clicking on the tab for the Supreme Court, and then following the link to "Court Policies" located under the heading "Media, Publication Bans & Policies". In addition, a party may check the content of an order as against their own memory or notes of the proceeding if they attended the court hearing, or may check it against any transcribed reasons for judgment.

[41] In my view, Ms. Martin has not raised any valid concerns about the authenticity and content of court orders. She seems to question the electronic signature and the court stamp but does not say that she was given a different order by the Registry than the orders relied upon by the respondents, nor has she pointed to any inconsistency between the written orders and the orally pronounced orders made by the respective judges in open court.

Disposition

[42] Justice Skolrood properly rejected Ms. Martin's arguments on the application for an extension of time. His analysis was grounded in the correct legal framework. Ms. Martin's underlying lawsuit has no merit and is duplicative of earlier dismissed litigation.

[43] It was also open to Justice Skolrood to consider the history of Ms. Martin's misuse of the court's processes, and to conclude that it was not in the interests of justice to grant an extension of time: *J.P. v. K.S.,* 2024 BCCA 78 at para. 23, citing *First Majestic Silver Corp. v. Santos,* 2014 BCCA 214 at para. 59.

[44] Accordingly, I find that Justice Skolrood applied the correct legal principles and made no errors of principle or misapprehensions of fact in his dismissal of Ms. Martin's application for an extension of time. I would dismiss the application to vary.

[45] Before I conclude, I wish to note that I have some concern about Ms. Martin's use of this Court's process. Now that Ms. Martin is in the Court of Appeal, she wants to add to her many challenges to the authenticity of court orders, a challenge to the authenticity of Justice Skolrood's signature on the entered order dismissing her application for an extension of time. This is despite the fact that she was present in the courtroom when the order was pronounced and well knows that her application was dismissed. I simply wish to caution Ms. Martin that litigation is not to be used as a form of harassment. I hope that with the explanation I have given regarding court orders that Ms. Martin will no longer frivolously challenge the authenticity of court orders. Pursuant to s. 22(2)(a) of the *CA Act,* this Court has the power to declare her a vexatious litigant if she persists in pursuing meritless appeal proceedings.

[46] In conclusion, the application is dismissed. In accordance with the practice of this Court in such cases when an appellant's application to extend the time for filing an appeal is dismissed, it follows that the appeal is at an end and the order should reflect that the appeal is dismissed as abandoned: see s. 36(c) of the *CA Act*.

"The Honourable Justice Griffin"

I AGREE:

"The Honourable Mr. Justice Harris"

I AGREE:

"The Honourable Justice Winteringham"