

NOVA SCOTIA COURT OF APPEAL
Citation: *C.A.V. v. L.C.M.*, 2020 NSCA 59

Date: 20200921
Docket: CA 498644
Registry: Halifax

Between:

C.A.V.

Appellant

v.

L.C.M.

Respondent

Judge: Van den Eynden, J.A.

Motion Heard: September 9, 2020, in Halifax, Nova Scotia in Chambers

Held: Motion dismissed

Counsel: C.A.V., appellant in person
L.C.M., respondent in person

Overview

[1] C.A.V. filed a Notice of Appeal seeking to set aside an Order arising from the decision of the Honourable Justice Cindy Cormier respecting determinations related to child support (2020 NSSC 168).

[2] This appeal has not yet been set down for a hearing and there are various outstanding matters to be dealt with in chambers. They include: a motion to accept late filing of the Appeal Book; whether the content of the proposed Appeal Book is complete; proposed amendments to the Notice of Appeal and C.A.V.'s motion to approve an agent to assist with advancing her appeal.

[3] The appellant's motions for stay, production of transcript and style of cause objections were disposed of by my colleague Justice Anne Derrick sitting in chambers (2020 NSCA 55).

[4] This decision pertains to agent approval. There is a tele-chambers conference set for September 23, 2020 to address the remaining outstanding matters.

[5] C.A.V. wishes to have Lawrence (Larry) Finck act as her "agent" for the purpose of her pending appeal. Mr. Finck is not a lawyer.

[6] In support of the motion, both Mr. Finck and C.A.V. filed materials. The matter was before me in chambers on September 9, 2020. It was agreed I would base my decision on the written materials filed. The respondent L.C.M. was given an opportunity to respond to the motion, and provided written submissions on September 14, 2020 objecting to Mr. Finck's participation.

[7] For the following reasons, I dismiss the motion to have Mr. Finck approved as a person to assist or act as an agent for C.A.V.

Principles

[8] This is a civil appeal governed by *Civil Procedure Rule* 90. While there are no specific provisions in *Rule* 90 that address agent representation on appeal, the provisions of *Rule* 34 "Acting on One's Own", as is the case with C.A.V., offer guidance. *Rules* 34.08 and 34.09 provide:

34.08 Assistant

- (1) A judge may permit a person to assist, and if necessary speak on behalf of, an individual party at a trial or hearing.
- (2) A party on behalf of whom an assistant is permitted to speak must be present when the assistant speaks, unless a judge allows otherwise.

34.09 Restrictions on agent or assistant

- (1) A person may not speak for a party at a trial or hearing unless the person is within subsection 16(2) of the Legal Profession Act, is the appointed agent of a corporate party, or has the permission of a judge to speak on behalf of a party.
- (2) A judge may require a corporate party to replace its appointed agent.
- (3) The presiding judge may withdraw permission for a person to assist, or speak for, an individual party.

[9] *Rule 90.02(1)* provides that Rules which are not inconsistent with *Rule 90* apply to proceedings in the Court of Appeal with necessary modifications. There is nothing inconsistent with *Rules 34.08* and *34.09*. They provide my authority, as a chambers judge, to either permit or prohibit Mr. Finck from assisting and making representations on behalf of C.A.V. respecting her pending appeal. Furthermore, this Court has jurisdiction to control its own process (see *R. v. Gouchie*, 2006 NSCA 109 and *R. v. Cox*, 2013 NSCA 140).

[10] The approval or denial of an agent to assist a party is an exercise of judicial discretion. In *Halifax (Regional Municipality) v. Ofume*, 2003 NSCA 110, Justice Saunders set out some helpful factors to consider:

[41] [...] Specifically, with respect to the discretion to allow lay persons to represent others before the courts of Nova Scotia, although such a discretion should be exercised cautiously and sparingly and always with a full consideration of such factors as: the capability and integrity of the lay person; the complexity of the case; the vulnerability of and potential harm to the represented party; the prejudice to the opposing side; the operation of s. 5(1) of the *Barristers' and Solicitors Act*; the demands upon time and judicial resources; the interests of other litigants seeking access to our courts; the objective of securing a just, speedy and inexpensive determination of every proceeding (*C.P.R. 1.03*); and the duty to ensure that respect for the administration of justice does not fall into disrepute [...]

Analysis

[11] Having set out the principles, I turn to explain why Mr. Finck is not an appropriate person to provide assistance or act as an agent for C.A.V. in this appeal.

[12] To start, I refer to the signed “Agency Agreement” between C.A.V. and Mr. Finck. It provides:

Whereas the Appellant is incapable of pursuing any legal recourse due to her disabilities and inability to function any further in an “Amicus Curiae” manner;

I, C.A.V., hereby appoint [...] Lawrence R. Finck to act on my behalf as my legal and investigative advocate with regard to any potential legal recourse relating to C.A. Court File Number-498644 any and all future Court adjudications:

I hereby further authorize the Agent to act and speak on my behalf and in my best interests for the purpose of:

- 1) Investigating and gathering evidentiary documentation including any and all documentation currently in the possession of any respondents and third parties,
- 2) Interviewing and potentially engaging the services of legal counsel if necessary which shall be at the discretion of the Agent.
- 3) I, C.A.V., hereby confirm that my authority granted to my Agent (Lawrence R. Finck) in this agreement shall be irrevocable by me without the mutual written consent of both parties.

[13] Based on the materials filed, Mr. Finck apparently resides in the Philippines. He provided a mailing and email address. He has no phone. He states that is for his own protection, explaining:

I do not have a cell phone for my own protection from a drone attack. I’m not worried about anything from Canada but I have tremendous respect for the Israeli Mossad and their attack dog U.S.A. C.I.A; All precautions have been implemented and staying alive is my number 1 priority;

[14] As noted, the respondent L.C.M. objects to the appointment of Mr. Finck. In his submissions, he succinctly states:

- I object to C.A.V. being represented by Larry Finck. I see no reason why she cannot continue to represent herself. She has a lot of experience doing so and is quite capable of continuing. She has been able to file many Motions and correspondence. She has telephone access.

- By the documents already submitted by Mr. Finck, it is clear that he sees this case is an opportunity to relitigate his own personal history, which is irrelevant to this case. I fear he will simply continue to carry on doing so, which will not be productive. His history with the courts supports this comment.

[15] L.C.M.'s comments are insightful.

[16] The materials filed by Mr. Finck have largely been inappropriate. Although some of the motions and written submissions filed have some relevance to marshalling this appeal forward, a significant portion of Mr. Finck's representations made on behalf of C.A.V. are irrelevant, rambling, and incoherent.

[17] The following paragraphs are but a small sampling of Mr. Finck's irrelevant and problematic communications with this Court. A brief filed by Mr. Finck on September 9, 2020 contained these excerpts in support of this motion:

9. Special Agent L. Fink has continually re-iterated to Canadian Courts for the last 25 years that Human Females who have their baby's stolen are incapable of instruction council let alone participating in a court of law. This was evident in R. v. [C.A.V.] and Finck 2004. Appellant [C.A.V.] consented and allowed her dump truck lawyers [...] and my truck [...] to put dangerous culpable evidence into the Court record and convicted her of 4 of the violent gun charges after Agent Finck got on his hands and knees and begged her not to do it. Agent Finck only kept the lawyers around to sink out the Court's legal fix and for what he is doing now.

10. A half-trillion dollar Statement of Claim against Canada for the kidnapping and destruction of his children, the murder of mine and Appellant [C.A.V.'s] Mothers and the proven genocide of Canadian children within Victoria B.C. [...]

11. Agent Finck taking the advice given by the Russians "Mr. Finck we admire the balls on you however you are going to put child abuse on [...] the most powerful man in the world and you will be hunted like Bin Laden. In addition to be successful with Civil Litigation you must get the children of Eastern Europe and Asia behind you. The children are all armed now with guns called cell phones." This advice I accepted and it's still a work in progress. I have been blocked off radio Israel-Facebook for this comment. "The children of the world are easy to please with a little food in their bellies, the universal legal right to their biological parents and that Canada, U.S.A. and Vatican cocks out of their asses NOW."

[18] These additional excerpts are taken from Mr. Finck's submissions respecting C.A.V.'s obligation to file a complete and proper Appeal Book as directed:

With the level of bullshit within society today I only talk to a few selective people. Write it down and sign it or shut up. It's unfortunate but that is the way most of the world is now. Canadians are brain dead with Boogiemans fake news media and internet bullshit controlled by Israel, their attack dog the USA, Canada, UK and another western countries [sic].

I have transformed my life into the written word.

As promised sending a useless Supplementary Appeal Book that took 16 hours of work, 500 package of paper and a black ink cartridge.

[...]

Take Notice the appellant will no longer be subject to ongoing, legal perversions and criminal cover up by Administration and non-elected lawyers on the judicial bench within this case at bar, with manoeuvres attempting to dump this Appeal amounts to ongoing emotional and psychological torture as against the Appellant and ongoing criminal abuse of Canadian dollars

[19] This is not the first occasion Mr. Finck was denied approval to assist a self-represented litigant on appeal. In *R. v. Cox, supra*, Beveridge, J.A. in chambers found that it was “crystal clear that his proposed assistance to Ms. Cox would be entirely inappropriate”. Further in *R. v. Gouchie, supra*, Bateman, J.A. concluded:

[27] To use the words of the Court in *Romanowicz, supra*, (at para 80) Mr. Gouchie’s choice of Mr. Finck as his agent is “is clearly incompatible with the proper administration of justice”.

[20] In reaching this conclusion Justice Bateman explained:

[25] While we would not agree with the AGNS’s submission that the fact Mr. Finck is an inmate in a federal institution automatically bars him from assisting Mr. Gouchie it is a factor which causes us to carefully scrutinize his suitability. In all other respects we accept that the impediments raised by the AGNS overwhelmingly demonstrate that Mr. Finck is unsuitable to act as Mr. Gouchie’s agent. We can state in no more effectively than did the applicant:

46. The involvement of Lawrence Finck as Agent for the Appellant would demean the integrity of the administration of justice. He is in jail. **He has demonstrated a lack of honesty and integrity. He has a criminal record, including convictions for failing to comply with Court Orders. He has failed to comply with Court Orders for which he has not been charged. He has admitted to perjuring himself. For almost a decade, Ontario and Nova Scotia Judges have expressed concerns about contemptuous behavior in Court. Judges have also noted a penchant for harassment by litigation and unfounded allegations. Judges have**

also noted a serious mental illness and lamented about spurious and irrelevant arguments. Lawrence Finck should not be accorded the privilege of audience in this Court to act as Agent for the Appellant, or anyone else.

[26] As counsel for the AGNS noted, the very spectre of sheriff's deputies conveying Mr. Finck to and from court and maintaining security in court while he purports to act as an agent would in itself undermine the integrity of the proceedings and diminish respect for the administration of justice in this province. **Quite apart from these considerations it is obvious from the rambling and largely irrelevant submissions advanced by Mr. Finck that he would be entirely ineffective as Mr. Gouchie's agent.**

[Bold emphasis added]

[21] Although several years have passed since *R. v. Cox* and *R. v. Gouchie* were decided, based on Mr. Finck's representations in this appeal, not much if anything has changed respecting the serious concerns with his ability to offer effective assistance and act as agent.

[22] There is a compelling list of reasons why I should not approve the request for Mr. Finck to act as agent. It would not serve the interests of C.A.V. as Mr. Finck, in my view, is unable to provide any rational and effective assistance. It would be unfair to the respondent. Furthermore, given the nature and style of his submissions, he is likely to waste valuable and limited judicial resources. In short, his appointment would be inconsistent with the proper administration of justice.

Conclusion

[23] The motion to approve Mr. Finck as an agent is dismissed.

Van den Eynden, J.A.