

NOVA SCOTIA COURT OF APPEAL

Citation: *Assaf v. Assaf*, 2014 NSCA 87

Date: 20140924

Docket: CA 423871

Registry: Halifax

Between:

Navy Assaf

Appellant

v.

Laila Assaf (Borhot)

Respondent

Judge: The Honourable Justice Cindy A. Bourgeois

Motion Heard: September 24, 2014, in Halifax, Nova Scotia in
Tele-Chambers

Written Release: September 25, 2014

Held: Deadline for filing Appeal Book ordered.

Counsel: Navy Assaf, Appellant in Person
Sobey Assaf for the Respondent, Laila Borhot Assaf, in
Person

Decision:

[1] On September 24, 2014 in tele-chambers I made an order directing the appellant to have her appeal book filed on or before October 8, 2014, failing which the respondent may bring a motion to dismiss the appeal for failure to perfect in a timely basis.

[2] A review of the Court record discloses the appellant has struggled with the requirement to file an appeal book, as do many self-represented litigants. These reasons are intended to provide clarity to the direction given to the appellant, and to underline the seriousness of pursuing her appeal in a timely fashion. Civil Procedure Rule 90.43 indicates that filing an appeal book is a necessary step in “perfecting” an appeal.

[3] By way of background, the Notice of Appeal was filed on January 28, 2014. From the Notice, it appears the appellant is challenging the propriety of an order made in relation to a Prothonotary’s motion to dismiss. The order serves to dismiss the appellant’s Supreme Court action for want of prosecution, and makes a costs award against her.

[4] In the Certificate of Readiness filed on May 26, 2014, the appellant asserts that the appeal book would be ready by June 20, 2014. That date has come and gone, without the appeal book materializing.

[5] Since the filing of the Certificate of Readiness, there have been, including that from which this decision arises, five tele-chambers appearances, all of which addressed the appellant's requirement to file an appeal book. It is clear from the court record that the appellant has given the Court multiple dates when she suggested she could have the appeal book filed. Further, it is abundantly clear that the appellant has had the benefit of successive chambers judges not only advising her of the requirement of filing, but giving direction as to how and where she could obtain instruction in how the appeal book should be compiled. The appellant has noted that she has in her possession the materials one would expect to see in an appeal book, most notably the transcript.

[6] The Court is fully cognizant that pursuing an appeal is a daunting task for many litigants, especially those who are self-represented. It is not uncommon for the Court to show latitude with respect to the timeframe for perfecting the appeal, giving litigants the opportunity, with some instruction and cajoling along the way, to get their materials in order. However, that latitude must have limits.

[7] By filing a Notice of Appeal, an appellant, self-represented or not, brings upon themselves the obligation to advance the appeal in an expeditious manner, and to abide by the requirements set out in the *Civil Procedure Rules*. The latitude afforded must be balanced against other important considerations, most notably the fairness to other parties and respect for the efficient and timely administration of justice.

[8] In the present case, the appellant has been given numerous dates by which she was directed to file her appeal book. It is yet to be filed. This appeal is not moving forward due to the appellant's failure to date to file an appeal book.

[9] Although in previous appearances the Court has set expected dates for the filing, it does not appear as if an order setting out a deadline for the filing of an appeal book has been issued. That is about to change. I am of the view that an order is necessary to make absolutely clear to the appellant that the filing of the appeal book must be done, and to prevent this matter from languishing. An order will therefore be issued as follows:

1. The appellant shall file the appeal book in relation to this matter no later than October 8, 2014;

2. In the event the appellant fails to file an appeal book as directed, the respondent may bring a motion to dismiss the appeal for failure to perfect in a timely basis;
3. In the event the appeal book is filed as ordered, a further tele-chambers appearance shall take place on October 29, 2014 at 11:00 a.m. for the purpose of setting a hearing date, the filing of factums and giving such further direction as may be required.

Bourgeois, J.A.