

COURT OF APPEAL FOR ONTARIO

CITATION: Quinto v. Stadler, 2016 ONCA 766

DATE: 20161018

DOCKET: M46806 (C62399)

Cronk, Juriansz and Brown JJ.A.

BETWEEN

Maria-Lisa Quinto

Appellant (Moving Party)

and

Clinton Carl Stadler

Respondent (Responding Party)

Marcus Boire, for the moving party

Sage Harvey, for the responding party

Heard: October 14, 2016

ENDORSEMENT

[1] The appellant, Maria-Lisa Quinto, moves for an order granting a stay of the order of R. P. Kaufman J. of the Superior Court of Justice dated June 15, 2016, until such time as her appeal from that order can be heard. Her husband, the respondent, Clinton Stadler, moves for an order quashing the appellant's appeal.

[2] In April, 2015, the appellant commenced matrimonial litigation against the respondent seeking custody of their child and child support. In his June, 2015 answer, the respondent asserted claims regarding the custody of and access to

their child. Temporary orders were made that the child primarily reside with the appellant and fixing the amount of child support. The parties then agreed the appellant would have sole custody of the child.

[3] In May, 2016, the respondent initiated a motion seeking weekly supervised access to the child for reconciliation therapy. In June, 2016, the appellant moved for various relief, including summary judgment dismissing the respondent's claim for access, documentary disclosure, and questioning.

[4] Both motions came on before the motion judge on June 15, 2016. He adjourned the appellant's motion to July 20, 2016. In respect of the respondent's motion, he wrote that he was "inclined to order reintegration reconciliation counselling" but wanted the curriculum vitae of the proposed therapist filed. He wrote that, absent agreement between the parties on who would act as the therapist, he would "make a decision on the basis that such counselling is necessary in the circumstances of this case." He adjourned that issue to July 20 and gave directions for the filing of further materials. However, he stated that the materials could not address "the need for such counselling which this court has already determined to be needed."

[5] The appellant filed a notice of appeal from that order on July 13, 2016.

[6] On the motions now before the court, the appellant submits the June 15 order was final for two reasons: (i) the motion judge failed to deal on June 15 with

her requests for summary judgment, documentary disclosure, and questioning; and (ii) by finding a need existed for reintegration counselling, the motion judge effectively decided the issue of access between the parties. The respondent argues the order is interlocutory because the merits of his claim for access remain to be decided.

[7] We accept the respondent's submission.

[8] As to the appellant's first submission, the motion judge's endorsement stated the appellant's motion had been scheduled for July 6, 2016; he adjourned it until July 20, 2016. His discretionary adjournment order clearly was interlocutory. As matters transpired, Corkery J. dealt with the appellant's disclosure and questioning requests in his July 20, 2016 order.

[9] In respect of the access issue, the June 15, 2016 order must be read together with the July 20, 2016 order made by Corkery J., before whom the motions of both the appellant and respondent were returned. He adjourned the appellant's summary judgment motion seeking the dismissal of the respondent's access claim to a date in November, 2016. During oral argument before us, respondent's counsel acknowledged no prejudice would enure to the respondent by awaiting the determination of the respondent's access claim at the hearing of the summary judgment motion scheduled for next month.

[10] With respect to the respondent's request for reintegration reconciliation counselling, Corkery J. ordered:

The parties shall each complete intake forms with the Family Services York Region to determine what reintegration or reconciliation counselling services are available to them and their child, if any, at what cost and when such services are available. If the parties are unable to agree on enrolling for such services, either side may bring a motion to determine access. No such motion may be brought before the stay application regarding Justice Kaufman's June 15, 2016 order is heard. [Emphasis added.]

[11] When the June 15 and July 20 orders are read together, it is clear that neither determined the issue of the respondent's access. That issue will be considered on the hearing of the appellant's summary judgment motion next month. Consequently, the motion judge's June 15, 2016 order concerning reintegration reconciliation counselling was interlocutory in nature. No appeal lies to this court.

[12] The respondent's motion to quash the appeal is granted. As a result, we do not reach the appellant's motion to stay.

[13] The respondent is entitled to his costs of the motion fixed in the amount of \$1,500.00, inclusive of HST and disbursements.

*S.A. Cronk JA.*  
*R.A. GJA*  
*A. J. JA.*