

COURT OF APPEAL FOR ONTARIO

B E T W E E N :

MELANIE GRILLO

Appellant

-and-

ADAM NEWTON

Respondent

P R O C E E D I N G S

BEFORE THE HONOURABLE JUSTICE S. A. GOMERY
on June 20, 2025, at TORONTO, Ontario

APPEARANCES:

S. Berry

Agent for the Appellant

M. Rasheed

Counsel for the Respondent

comment on this. And again, I know you
[indiscernible], but although the father has been
giving an impression over contact and parenting
time, the, the trial judge left it open for either
party to seek direction with respect to the
exercise of that discretion as early as August 4th.
So we're not looking at a 90-day window. We're
looking at a 5-week window. Where, they're,
they're, they - let's, let's, let's assume the
worst here. Okay? Let's assume, notwithstanding
everything that the mother said in the past and,
and what the judge has said, but that the father
doesn't allow any contact between the daughter and
the mother, for a period of, of five weeks(ph).
That, that can be put an end to as of August 4th,
if the trial judge has evidence before him that
that is creating a problem. So we're not looking
at [indiscernible].

S. BERRY: At evidence.

THE COURT: We're looking at five weeks at the
most.

S. BERRY: But where would that evidence come from,
Your Honour?

THE COURT: Well....

S. BERRY: When - whether the child's ready for
contact, whether they're distressed, what kind of -
there's no one in place to support this child at
this point in time. I mean, if the, if the court
is concerned that Ms., Ms. Grillo is not going to
facilitate parenting time and those would be
immediately addressed, the, the - tomorrow is the
first scheduled parenting time with dad, according

5 to the plan, I can understand, you know, when I
look back to the retainer that the party signed
with Mr. Tribe, it says that he is to facilitate
reconciliation with her father based on the
therapist evaluation of Zaria, Zaria. So you know,
he's made a – he's, in keeping with the retainer.
He's doing what the parties hired him to do. To
say, look, I'm not – this immediate custody
reversal without some build-up visit, is not in
10 this child's best interests. And there's no real
plan of care with respect to how this therapeutic
intervention is going to play out except that it's
going to come in front of a judge with no further
expert evidence or therapeutic evidence, just the
competing evidence again of the parties to...

15 THE COURT: I, I guess that...

S. BERRY: ...to have it...

THE COURT: ...[indiscernible]....

S. BERRY: ...address the child's best interests.

20 THE COURT: Yeah. That, that assumes that the
trial judge was wrong in accepting the father that,
that he would take steps to ensure that this child
got appropriate care. And, and, and, you know, so
you're assuming extreme bad faith on the part of
25 the father, and you're assuming that he's not going
to do what he told the judge he was going to do.
So I, I, I, yeah, yeah, I, I, I – you'll understand
I'm in a position where I have trial judge who has
spent a considerable amount of time with these
30 parties, and concludes on evidence, which is pretty
solid to me, that your client doesn't comply with
court orders with respect to the child, and the

5 father does. And, and you're saying
notwithstanding those findings, I should assume for
the purpose of the next five-week period that the
father is suddenly going to behave outrageously
towards the mother and not put his child's
interests first, even though there's no evidence
he's ever done that in the past.

10 S. BERRY: And I'm also suggesting, Your Honour,
that if there's no therapeutic intervention in this
circumstance, it won't improve. Right? The, the –
if what the judge has found is a fact, that
mother's behaviour needs to be managed around
transitions and clear and accommodating the child's
relationship, there does need to be an expert who
15 has a history of successfully reintegrating
children with their parents and following that
advice seriously because that's the path to success
as opposed to taking this drastic resolution
without the support of the kind of teams that are
20 normally in place for this kind of transition, like
a two-therapist team that works with the parent and
the child on removal to mitigate that harm. That
is a real, real harm, and there's no plan in place
for that. That's who – that's an immediate concern
25 for 4:00 p.m. today. It's in the parties are going
back to see Justice McLeod in five weeks. They've
got a five-week reintegration plan with Lou Tribe
who's saying, I have a 90 per cent success rate in
resolving this problem that plagues Family Court.
30 What is...

THE COURT: *[Indiscernible]*....

S. BERRY: ...the irreparable harm? But what is

the irreparable harm in doing that compared to....

THE COURT: So the irreparable harm is that the court who's heard all of the evidence on, saying at the completion that is child is being abused. This child was being abused, and the, the, the trial judge says we need to remove this child from a circumstance in which she is suffering ongoing abuse. Now, you have evidence, you've tendered evidence that there, there is going to be psychological trauma to the child [indiscernible]. And but, you know, like, it doesn't seem as though the — this child is going to escape consequences either way because on faith was the decision to leave the child in a situation which has been found to be accurately abusive. Or uphold the decision of the, the judge who considered all the evidence and came to the conclusion that even though this is a drastic remedy, and he, he recognizes that if necessary.

S. BERRY: But, Your Honour, at the time....

THE COURT: I [indiscernible]....

S. BERRY: No, but I want to say, like, I, I understand you're saying, like, what, you know, but there is another alternative right at this moment.

Ms. Grillo said I will comply(ph)....

THE COURT: But Mr. Tribe, by, by, by taking the position that he did at trial, that he wasn't going to interfere with the trial judge's determination of the, the parenting plan and then doing a complete 180 when the plan was not — what the mother wanted has lost the confidence of the [indiscernible]. That's the [indiscernible]. So I

agree with you, there desperately needs to be a therapist here, but I cannot see any way in which that therapist is going to be for trial because he took a side.

S. BERRY: But his side is simply to say we had a therapeutic plan in place. That is my job. That is what you hired me for. You hired me because I'm an expert in doing what you need me to do.

THE COURT: I, I'm not going to argue....

S. BERRY: Now you don't want to accept my evidence....

THE COURT: *[Indiscernible]*....

S. BERRY: I'm not.

THE COURT: Okay. What I'm going to do is I'm going to stand down for 10 minutes, I'm going to come back and give you my bottom line. I'm not going to be in a position where I can give you a, a whole endorsement. *[Indiscernible]* want to do this in a *[indiscernible]* way, but I'll come back in 10 minutes and give you my position.

S. BERRY: Thank, Your Honour.

M. RASHEED: Thank you.

CLERK REGISTRAR: The court retires briefly.

R E C E S S

U P O N R E S U M I N G:

THE COURT: I'm not in a position to give you full reasons for my decision, but I do want to give you my bottom line. So my bottom line is that the motion to stay is dismissed. I find that – and, and, and I'll, of course, take it that you're *[indiscernible]* about to see in my endorsement just

so you know so you can you tell your client if they're interested. I am satisfied that the motion is not frivolous, but I am not satisfied that there is a finding. I am not satisfied that irreparable harm has, has been established. In fact, I find, based on the trial judge's findings and the evidence he relied on that the child will suffer irreparable harm [indiscernible]. The child may or may not suffer irreparable harm if the stay is not granted. On that [indiscernible] that Mr. Tribe's evidence is fully accepted even though he [indiscernible]. And an ultimate [indiscernible] that the father will take known steps to take counselling and therapy for the child notwithstanding the trial judge's comments that he [indiscernible]. So I don't think that's made out. And I think on the balance of convenience, it favours for the comments given on the trial such as observations where he can observe the parties and immersed himself in the evidence, I don't see an anomaly there, of what comes in [indiscernible]. And, and weighing all of that, I have no problem with his assessment. I think it fits. So the transfer will take place at 4:00 p.m. today. Ms. Berry, I hope you communicate to your client and, secondly, for both parties [indiscernible]. Well, especially given the, the position that [indiscernible]. And I, I haven't heard submissions on costs, but I am happy to hear these. So you, first, Ms. Rasheed.

M. RASHEED: Yes, Your Honour. Certainly, the respondent was successful in dismissing the

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March 10, 2026

(Date)

J. Spurlock

(Signature of Authorized Person)

Jeannette Spurlock

ACT ID: 2006538841

1-855-443-2748

jdowlesstranscripts@vptranscription.com

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