

In the Court of Appeal of Alberta

Citation: Ubah v Ubah, 2026 ABCA 301

Date: 20260922
Docket: 2501-0111AC
Registry: Calgary

Between:

Chinedu Ubah

Applicant

- and -

Geraldine Chiderah Ubah

Respondent

**Reasons for Decision of
The Honourable Justice Anne Kirker**

Application for Permission to Appeal

Reasons for Decision of The Honourable Justice Anne Kirker

Introduction

[1] Mr. Ubah seeks to appeal two orders resulting from a family law streamlined trial. Because Mr. Ubah is a person who has been declared a vexatious litigant in the court appealed from, he requires permission to appeal the orders: *Alberta Rules of Court*, Alta Reg 124/2010, r 14.5(1)(j); *Ubah v Ubah*, 2026 ABCA 100 at paras 10-25 (*Ubah CA*), leave to appeal to SCC dismissed, 42330 (30 July 2026).

Background

[2] The underlying family law action began in October 2022 when Ms. Ubah filed a statement of claim for divorce and division of family property. She sought from Mr. Ubah, among other things, child support, spousal support, and an equal division of the family property. Mr. Ubah objected to the entirety of Ms. Ubah's claim on the basis that they were not married. Following a case management conference, the parties were directed to a streamlined trial to address three issues: 1) is there a valid marriage; 2) if not, did Ms. Ubah know or have reason to believe the marriage was void; and, 3) does Ms. Ubah have rights under the *Divorce Act*, RSC 1985, c 3 (2nd Supp) or the *Family Property Act*, RSA 2000, c F-4.7.

[3] In reasons reported at *Ubah v Ubah*, 2025 ABKB 152 (*Ubah KB*), the trial judge first determined that Mr. Ubah had the onus of proving the marriage was invalid because there was evidence supporting a presumption of validity, including a copy of a certificate of marriage which stated the parties were married in Nigeria on April 1, 2014. The trial judge was not satisfied the evidence relied upon by Mr. Ubah was sufficient to rebut the presumption. She found there was a valid marriage between Mr. Ubah and Ms. Ubah considering that they had participated in three marriage ceremonies in Nigeria and signed a certificate of marriage with their witnesses. Relatives and community members were in attendance. The trial judge also noted that after Ms. Ubah moved into Mr. Ubah's Calgary home in March 2015, the parties lived as a married couple until separation in November 2021. They participated in their community, had two children together, and held themselves out as a married couple. The trial judge found that even if the marriage was not valid, Ms. Ubah did not know or have reason to believe the marriage was void. As a result, her claim was not defeated by section 2 of the *Family Property Act*, which states: "Nothing in this Act confers a right on a spouse who at the time of marriage knew or had reason to believe that the marriage was void." The trial judge concluded that Ms. Ubah had rights under both the *Divorce Act* and the *Family Property Act*. Costs were awarded against Mr. Ubah in the amount of \$6,075.00: *Ubah v Ubah*, 2025 ABKB 300.

[4] In seeking to appeal the streamlined trial judgment and subsequent costs order, Mr. Ubah raises various grounds of appeal. They can be summarized as follows. He says the trial judge erred in placing the onus on him to show the parties' marriage was invalid, suggesting his onus was discharged when the issues were directed to the streamlined trial. Mr. Ubah additionally argues that the trial judge erred in applying the common law to decide the validity of the marriage and in finding that Ms. Ubah did not know or have reason to believe the marriage was void. Throughout he takes issue with the trial judge's treatment of the evidence and factual findings. He further contends that the trial judge breached procedural fairness, displayed a reasonable apprehension of bias, and failed to provide adequate reasons for her decision. With respect to the costs order, Mr. Ubah argues it is plainly wrong.

Permission to Appeal

[5] When a vexatious litigant seeks to appeal an order other than the vexatious litigant order itself, the test for permission to appeal under rule 14.5 of the *Alberta Rules of Court* and the requirements of section 23.1(7) of the *Judicature Act*, RSA 2000, c J-2 are relevant: *Ubah CA* at para 26, citing *Christofi v Jeffrey V Kahane Professional Corporation*, 2022 ABCA 284 at paras 10-15, leave to appeal to SCC dismissed, 40507 (4 May 2023). Mr. Ubah must demonstrate there is an important question of law or precedent, there is a reasonable chance of success on appeal, delay will not unduly hinder the progress of the action or cause undue prejudice, and "the proceeding is not an abuse of process and that there are reasonable grounds for the proceeding": *Christofi* at paras 12 and 15; *Makis v Alberta Health Services*, 2023 ABCA 214 at para 5.

[6] Mr. Ubah has not persuaded me that his proposed appeal raises an important question of law or precedent or that he has a reasonable chance of success on appeal. The submissions Mr. Ubah seeks to make are specific to these parties and do not present important issues of law or precedent that warrant review by a panel of this Court: *Steenberg v Steenberg*, 2023 ABCA 132 at para 12. Most of his arguments take issue with the trial judge's assessment of the evidence and factual findings, including her determination that documents appended to Mr. Ubah's affidavit were insufficient to prove Nigerian law and the defects Mr. Ubah alleged in the formal requirements of the *lex loci celebrationis*. Apart from affecting just the parties, these factual issues "are only susceptible to review if they reveal palpable and overriding error" (*Ubah CA* at para 31, citing *Eccles v Eccles*, 2025 ABCA 418 at para 31), which is not evident on the record available to me.

[7] Mr. Ubah’s argument that the trial judge made a legal error in requiring him to rebut “the strong presumption that parties who undergo a ceremony of marriage followed by cohabitation are lawfully married” (*Hassan v Hassan*, 2006 ABQB 544 at para 7, cited in *Ubah KB* at para 23), appears to rest, at least in part, on a misunderstanding that the order directing the issues raised by Mr. Ubah to trial was substantively favourable to his position. The procedural order directing the streamlined trial was designed to manage the action and was not determinative of any of the substantive issues adjudicated by the streamlined trial judge: *Alberta Rules of Court*, r 4.11. Her decision that the Nigerian certificate of marriage “taken in conjunction with the evidence of Ms. Ubah, and some of the evidence of Mr. Ubah” (*Ubah KB* at para 21) raised a presumption of validity, and that Mr. Ubah had the onus to rebut the presumption, is otherwise one of applying established law to the facts. It is not, in my view, likely to be overturned on appeal.

[8] I am not satisfied that Mr. Ubah’s procedural unfairness, reasonable apprehension of bias, and insufficiency of reasons arguments have any merit either. Questions of procedural fairness require this Court to determine whether a party received the degree of procedural fairness to which they were entitled in law: *Park v Virtue*, 2025 ABCA 274 at para 12. Here, there is nothing to suggest the trial judge misunderstood the issues or that Mr. Ubah was not afforded an opportunity to be heard. There is also no evidence that would displace the strong presumption of judicial impartiality and support a finding of reasonable apprehension of bias: *R v S(RD)*, [1997] 3 SCR 484 at paras 31-32, 1997 CanLII 324. The mere fact that the trial judge made findings and reached conclusions with which Mr. Ubah disagrees is not a basis upon which bias or unfairness can be made out. Finally, after reviewing the trial judge’s reasons as a whole and in context, Mr. Ubah’s insufficiency of reasons argument discloses no reasonable chance of success on appeal. Reasons do not need to address every piece of evidence and every argument: *ConocoPhillips Canada Resources Corp v Shell Canada Limited*, 2024 ABCA 307 at para 19.

[9] With respect to the costs awarded against Mr. Ubah, I see no reasonable chance this Court will intervene because costs are highly discretionary and subject to a deferential standard of review: *Quebec (Director of Criminal and Penal Prosecutions) v Jodoin*, 2017 SCC 26 at para 52.

[10] To conclude, Mr. Ubah’s proposed appeal fails to raise any important question of law or precedent that has a reasonable chance of success. I am also concerned that the proposed appeal will unduly hinder resolution of the long outstanding issues in the underlying action. It would be an abuse of process to permit the appeal to proceed: *Bains v Adam*, 2024 ABCA 271 at para 30; *Rana v Rana*, 2022 ABCA 270 at para 54, leave to appeal to SCC dismissed, 40474 (30 March 2023).

Conclusion

[11] The application for permission to appeal is denied.

[12] Rule 9.4(2)(c) is invoked, and the Court will prepare the resulting order.

Application heard on August 26, 2026

Reasons filed at Calgary, Alberta
this 22nd day of September, 2026

Kirker J.A.

Appearances:

Applicant C. Ubah

S. Conrad
for the Respondent