# In the Court of Appeal of Alberta

**Citation: McCallum Estate v McCallum, 2026 ABCA 353**

**Date:** 20261103
**Docket:** 2601-0230AC
**Registry:** Calgary

**Between:**

**Morgan Wilson as the Administrator of the Estate of Richard Mervin McCallum**

Applicant

- and -

**Terry Lynn McCallum**

Respondent

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**Reasons for Decision of The Honourable Justice Jane Fagnan**

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Application to Restore Appeal

**Reasons for Decision of**
**The Honourable Justice Jane Fagnan**

[1] The applicant promptly applied to restore an appeal under Rule 14.65(1) of the *Alberta Rules of Court*, Alta Reg 124/2010 after missing the deadline to file the appeal record.

[2] The applicant deposes that the appeal record was ready to be filed on the deadline, but his counsel's firm realized late in the day that it had run out of the coloured card stock paper required for the cover page. The document was filed the following day.

[3] The respondent suggests there were options available to avoid the late filing. The respondent further submits the appeal is without merit.

[4] The appeal alleges various errors in a context involving the interplay between family property proceedings and a subsequent estate action. The applicable "arguable" threshold is low. The issues raised meet that low threshold.

[5] I am satisfied the applicant has an explanation for the very brief delay, had a continuing intention to proceed with the appeal, there is no prejudice to the respondent, the appeal meets the low "arguable" threshold, and it is in the interests of justice to permit the appeal to be restored.

[6] The application is granted.

[7] Counsel are directed to contact the Case Management Officer by November 6, 2026 to set filing deadlines.

Application heard on October 29, 2026

Reasons filed at Calgary, Alberta
this 3rd day of November, 2026

Fagnan J.A.

**Appearances:**

L.M. Handfield (no appearance)
D.A. McGillivray
for the Applicant

M.J. Birky
for the Respondent