

IN THE COURT OF APPEAL OF MANITOBA

BETWEEN:

<i>JEAN PLOURDE</i>	)	<i>J. Plourde</i>
	)	<i>on their own behalf</i>
	)	
<i>(Applicant) Applicant</i>	)	<i>D. Sahulka</i>
	)	<i>for the Respondent</i>
<i>- and -</i>	)	
	)	<i>Chambers motion heard:</i>
<i>MANITOBA PROSECUTION SERVICE</i>	)	<i>May 21, 2026</i>
	)	
<i>(Respondent) Respondent</i>	)	<i>Decision pronounced:</i>
	)	<i>June 29, 2026</i>

TURNER JA

[1] The applicant seeks an extension of time to file her appeal book and factum under rule 28.1 of the MB, *Court of Appeal Rules (Civil)*, Man Reg 555/88R (the *CA Rules*) (the extension motion). Her appeal arises from a decision of the Court of King’s Bench dismissing her challenge to the respondent’s (the Crown) stays of a private prosecution.

[2] For the reasons set out below, the applicant’s motion is dismissed.

A Preliminary Issue

[3] In its submissions, the Crown raises the question of whether this Court has jurisdiction to hear the appeal under the *Criminal Code*, RSC 1985, c C-46 [the *Code*]. In my view, that issue need not be determined in the present case. The Crown candidly acknowledges that the jurisprudence on the point is unsettled. Given that the applicant is self-represented and,

understandably, has not provided comprehensive submissions on the issue, this is not an appropriate case in which to attempt to resolve the jurisdictional question. Moreover, the applicant's grounds of appeal, summarized below, permit determination of the extension motion without deciding the statutory issue.

Background

[4] On September 16, 2024, the applicant initiated a private prosecution by affirming an information pursuant to section 504 of the *Code*. The information alleged that two named individuals failed to provide the necessities of life to the applicant's father and that one of the named individuals also committed fraud.

[5] On April 15, 2025, the Crown intervened in the proceedings and entered a stay of proceedings on each count of the information. The Crown attorney responsible for the decision sent the applicant an email that explained the reasons for his decision to enter the stays.

[6] On May 7, 2025, the applicant filed an application in the Court of King's Bench seeking to review the Crown's decision to enter stays. The application was heard on October 6, 2025 and was dismissed. The King's Bench judge (the KB judge) found that prosecutorial discretion was only reviewable for abuse of process and that the applicant had failed to provide threshold evidence to support her application.

[7] The applicant filed a notice of appeal of the KB judge's decision on October 14, 2025. Transcripts of the submissions before the KB judge and his decision were subsequently filed.

[8] On March 2, 2026, a deputy registrar wrote to the applicant advising that the appeal would be deemed abandoned if an appeal book and factum were not filed by April 1, 2026. The parties agree that the deadline was subsequently extended to April 27, 2026.

[9] On May 5, 2026, the applicant filed the extension motion, which was heard on May 21, 2026.

Principles Regarding an Extension of Time

[10] To be granted an extension of time to file an appeal book and/or a factum, an applicant must establish that (1) they had a continuous intention to appeal, (2) there is a reasonable explanation for the delay, and (3) there are arguable grounds of appeal (see *R v Do*, 2018 MBCA 50 at para 7).

[11] The Crown does not contest that the applicant has demonstrated the first two criteria are satisfied. It asserts that she has not satisfied the third criterion of arguable grounds.

[12] An arguable ground of appeal is a realistic ground that, if established, appears of sufficient substance to be capable of convincing a panel of this Court to allow the appeal (see *C (S) v C (AS)*, 2011 MBCA 70 at para 8).

[13] In the notice of appeal, the applicant sets out six grounds of appeal. In substance, the applicant alleges that the KB judge:

- failed to consider or misinterpreted sections 507.1(1), 507.1(5) and 579 of the *Code*, as to when a stay of proceedings can be entered;

- erred in misapplying the legal standard for the charges;
- erred in finding that the Crown applied the correct charging standard in its assessment of the evidence; and
- erred in failing to allow the applicant the opportunity to present her evidence in full.

[14] I am not satisfied that the applicant has presented any arguable grounds of appeal.

[15] Section 579(1) of the *Code* provides that the Crown can enter a stay of proceedings at any time after “proceedings in relation to an accused . . . are commenced”. Although the *Code* does not provide a specific definition of “proceedings”, various courts have previously held that proceedings are commenced once an information has been laid (see *R v Pardo* (1990), 62 CCC (3d) 371 at 373-74, 1990 CanLII 10957 (QCCA); *R v Wren*, 1987 CarswellBC 971 at para 10, [1987] BCJ No 1336 (BCCA); *Campbell v A-G Ont* (1987), 31 CCC (3d) 289 at 299, 1987 CanLII 4268 (ON H Ct J), aff’d (1987), 35 CCC (3d) 480, 1987 CanLII 4333 (ONCA)).

[16] This Court has specifically rejected the applicant’s argument that “proceedings in relation to an accused” (see the *Code*, s 579) have not commenced until after a Provincial Court judge has held a hearing pursuant to section 507.1 of the *Code*. Effectively, the Crown can stay proceedings at any time after an information has been laid (see *Klippenstein v R*, 2019 MBCA 27; *Klippenstein v R*, 2019 MBCA 13).

[17] The KB judge correctly found that prosecutorial discretion is reviewable solely for abuse of process and that courts should only interfere with exercises of prosecutorial discretion in circumstances of flagrant impropriety or in actions for malicious prosecution (see *R v Anderson*, 2014 SCC 41 at para 48; *Krieger v Law Society of Alberta*, 2002 SCC 65 at para 49). The applicant does not assert that the Crown acted in a way that would rise to the level of an abuse of process. As noted above, her assertion is that the Crown did not apply the correct charging standard. As such, this ground of appeal does not have merit.

[18] Finally, the applicant's assertion that the KB judge failed to give her the opportunity to present her evidence is not borne out by the record. The transcripts confirm that the KB judge reviewed all filed material, including the applicant's affidavit and its approximately fifty exhibits, including numerous medical records related to her father.

Disposition

[19] While I recognize the applicant's sincere view that a private prosecution is the only way she can get justice for what she believes happened to her father, the grounds of appeal she wishes to advance are simply not arguable. As a result, the motion for an extension of time to file her appeal book and factum is dismissed.