

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2024] SGHCF 44

Originating Summons (New Legislation) No 9 of 2024

In the matter of Rules 827 and 828 of the Family Justice Rules 2014

And

In the matter of HCF/District Court Appeal No 40 of 2024

Between

W XO

... Applicant

And

W XP

... Respondent

JUDGMENT

[Civil Procedure — Extension of time]

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W XO

v

W XP

[2024] SGHCF 44

General Division of the High Court (Family Division) — Originating
Summons (New Legislation) No 9 of 2024

Choo Han Teck J

30 October 2024

13 November 2024

Judgment reserved.

Choo Han Teck J:

1 This is an application by the wife in the marriage (“the Applicant”) for an extension of time to file her Record of Appeal (“ROA”). She makes this application pursuant to her appeal, HCF/DCA 40/2024, against the orders on child maintenance by the District Judge below (“the DJ”). Her appeal had lapsed because she failed to file the ROA. She thus makes this application so that she can continue with her appeal. Both the Applicant and the husband in the marriage (“the Respondent”) are self-represented persons.

2 At the hearing before me, the Applicant claimed that she had filed her ROA, and that she had paid \$664 to file the same. She showed a receipt as proof of the latter. However, her ROA is nowhere to be found in the record. This is probably because she had filed her ROA in the Family Courts and not in the

High Court. It also appeared to me during the hearing that the Applicant did not know what exactly needed to be filed in the Record of Appeal.

3 The merits of the intended appeal in this case is the most important factor in deciding whether to grant an application for an extension of time. If the intended appeal is clearly without merit, then the court will dismiss the application: *Bin Hee Heng v Ho Siew Lian (acting as Executrix and Trustee in the Estate of Gillian Ho Siu Ngin)* [2020] SGCA 4 at [24]. In my view, if the appeal has merit but would result in a pyrrhic victory for the applicant, that should also point away from granting an extension of time.

4 The Applicant is a 53-year-old teacher in an international school. She says that she earns a gross monthly salary of \$5,000, and takes home around \$3,000 to \$4,000 a month. The Respondent turns 45 this year and is a chef in a Middle Eastern restaurant. He says that he earns \$2,500 but may earn more than \$3,000 if he works overtime. They have a 14-year-old daughter who the Applicant claims has a heart condition and needs to go for regular medical checkups. The Applicant also has a 21-year-old son currently in national service, who will be applying for university.

5 The parties gave different indications of their salary in the proceedings below. The Applicant submitted to the DJ that she earns a take home-salary about \$3,600, and the Respondent claimed that he earns a take-home salary of \$1,960. The Applicant asserted that the Respondent earns a salary similar to hers. The DJ found that the Respondent earned around \$2,500 a month after accounting for additional income from overtime and other ad hoc job opportunities. This is probably why the Respondent told me that he earns \$2,500 a month.

6 In the proceedings below, the Appellant asked the Respondent to contribute maintenance for the daughter as follows:

- (a) May 2023 to January 2024 at \$500 a month (total \$4,500);
- (b) February 2024 at \$600 a month;
- (c) year-end expenses of \$500 from 2023 onwards; and
- (d) birthday expenses of \$150 from 2023 onwards.

The Respondent had contributed three payments of \$250 on June, July and December 2023 (*ie*, \$750 in 2023), as well as three payments of \$200 in January to March 2024 (*ie*, \$600 in 2024). He proposed a sum of \$300 per month moving forward.

7 The Applicant listed the daughter's expenses at \$1,200 a month and asked for both parents to share this sum equally. The Respondent argued that the total expenses were excessive, and raised concerns over the expenses for religious classes and tuition / enrichment. He also disagreed with an equal apportionment of the daughter's expenses, because she had accommodation and a son who was working and supporting her while he did not.

8 The DJ found that the daughter's reasonable expenses was around \$1,000, as certain expenses such as insurance and outings were not reasonable expenses. She held that the Applicant and Respondent should bear the daughter's expenses in the proportion of 60-40 respectively, based on her findings of the parties' financial ability. The Respondent was thus ordered to pay the Applicant \$400 a month from January 2024 onwards. The DJ did not order the Respondent to pay \$400 per month for the period of May to December

2023, as she believed that he had “tried his best to meet his obligations” to maintain the daughter.

9 Since the Applicant has not filed her ROA, I have no document setting out her points of appeal. But from what she told me at the hearing, it appears that her intended appeal concerns the following issues. First, the DJ should have ordered maintenance of \$600 instead of \$400 a month. This is because the Respondent earns more than what the DJ found (*ie*, he earns more than \$2,500), which means the split should not be 60-40. This is also because the daughter’s expenses are increasing, *ie*, the daughter’s reasonable expenses are more than \$1,000. Second, the DJ should have ordered maintenance for May to December 2023.

10 The Applicant claims that the Respondent earns more than \$2,500, because the Respondent is a football player and a referee, and earns money from that. In reply, the Respondent said that the Football Association of Singapore (the “FAS”) only gave him two payments of \$200 and \$60 recently. He further says that he is no longer registered with the FAS due to his injury and age. I am inclined to believe that he does not earn additional income from football or refereeing. The DJ also found that the Respondent earned around \$2,500 based on the Respondent’s consistent and clear explanations regarding various deposits in his bank accounts. An appellate court will not intervene in a lower court’s finding of facts unless the finding is plainly wrong or against the weight of evidence, and I do not see any such error regarding the DJ’s finding of \$2,500. I thus do not disturb the 60-40 split.

11 As for the Applicant’s argument that the daughter’s expenses will be increasing, she says this is because the daughter is turning 15 soon and needs

tuition. She also highlights that the daughter has a heart condition which requires her to go for medical checkups often. However, even during the proceedings below, the Applicant had mentioned the daughter's medical condition and her need for tuition. She had also indicated that her daughter's expenses are \$1,200 and crucially, that she is in fact paying around this amount monthly. When the DJ found that the daughter's reasonable expenses were \$1,000, she had already considered the daughter's tuition and medical expenses. These facts thus do not warrant an increase in maintenance.

12 What I am less certain about is the DJ's holding that insurance expenses for the daughter may not be reasonable expenses. Unless the insurance policies are extravagant (which does not appear to be the case here), insurance expenses should generally be considered reasonable expenses. Nonetheless, I would not disturb the DJ's finding that the daughter's reasonable expenses are \$1,000. I agree with the DJ that outings should not be included in the list of reasonable expenses. Also, the Applicant had double-claimed for movie expenses under "Entertainment — \$50" and "Well-being Movie/Food — \$60". I thus agree that the daughter's reasonable expenses are about \$1,000 per month. I also would not order the Respondent to pay for year-end or birthday expenses, as these seem to be luxuries, considering the income level of both parties.

13 I turn to decide if the Respondent should be made to pay maintenance for the months of May to December 2023. Over that period, he had only paid \$750 as maintenance. If he had paid \$400 per month for that period, he would have paid \$3,200 instead. This amounts to a difference of \$2,450.

14 With respect, I disagree with the DJ's finding that the Respondent had "tried his best" to fulfil his duty to maintain his daughter. He had paid a grand

total of \$750 for a period of eight months, which averages out to \$93.75 per month. With a take-home income of \$2,500, the Respondent was surely capable of paying more than \$93.75. The latter sum is also a far cry from the \$400 per month which the DJ decided ought to be the Respondent's contribution to the daughter's reasonable expenses. Nonetheless, I would not have compelled the Respondent to pay the full sum of \$2,450 (*ie*, \$400 x 8 months — \$750). The grant of maintenance is ultimately a question of discretion, and in exercising that discretion, I must also take the Respondent's circumstances into account. I would have considered that it may be too onerous to make the Respondent pay \$2,450 at this juncture, as he only earns \$2,500 a month, has to pay his rent, and is already paying \$400 per month. At best, the Respondent might have been ordered to pay an additional \$1,225 to the Applicant as maintenance for the period of May to December 2023, but for the reasons below, that would not have justified granting leave to appeal.

15 I had previously mentioned that the court would not grant an extension of time even if the intended appeal has merits, if doing so would result in a pyrrhic victory. That is the case here. The Applicant has already paid \$664 in court fees to file documents for her appeal (including her Notice of Appeal). She has also filed her appellant's case, which cost another \$600. The present application also costs at least \$100. These costs already exceed the \$1,225 that may have been ordered in her favour. The costs she would have to incur would increase if she makes further errors (such as the one which necessitated this application). The Applicant does not appear to have the means to hire a lawyer, and is not familiar with legal procedure. Granting an extension of time may give her nothing more than a pyrrhic victory.

16 I thus dismiss the application. Since the Applicant's ROA was not filed on time, her appeal is deemed withdrawn. I make no order as to costs.

- Sgd -
Choo Han Teck
Judge of the High Court

The applicant in person.
The respondent in person.
