

COURT OF APPEAL FOR ONTARIO

CITATION: Starra v. Starra, 2026 ONCA 405

DATE: 20260610

DOCKET: COA-25-CV-0197

Rouleau, Thorburn and Favreau JJ.A.

BETWEEN

Ronald Starra

Applicant (Respondent)

and

Carole Starra

Respondent (Appellant)

Gary S. Joseph and Tiffany Guo, for the appellant

Yanik Guilbault and Valérie Bégin, for the respondent

Heard: March 24, 2026

On appeal from the order of Justice Hélène C. Desormeau of the Superior Court of Justice, dated December 6, 2024, with reasons reported at 2024 ONSC 6613.

Rouleau J.A.:

[1] The appellant appeals the motion judge's order granting the respondent's request to change spousal support in light of his imminent retirement and dismissing her motion for the retroactive adjustment of spousal support. The appellant argues that the motion judge erred in failing to give appropriate weight

to the evidence of family violence and the compensatory component of the support order, and in failing to properly consider and apply the law with respect to claims for retroactive spousal support.

[2] For the reasons that follow, I would dismiss the appeal.

[3] I note that the appeal was argued in both official languages. Given that the appellant pled in English and these reasons explain why the appeal is being dismissed, I have drafted the reasons in English. The court will provide a translation upon request of either party.

I. FACTS

[4] The parties were married on June 19, 1982 and separated on October 22, 2007 after a 25-year marriage. They divorced on May 27, 2009. There are three children of the marriage who are now fully independent adults.

[5] With the benefit of legal advice, the parties resolved the issue of spousal support and agreed to the issuance of a final consent order dated February 1, 2013. The order provided that the respondent was to pay the appellant monthly spousal support in the amount of \$15,500, as well as an unqualified payment of \$100,000 (the “final order”). The amount was in the mid-range based on the respondent’s 2011 income without any attribution of income to the appellant.

[6] This had been a long-term traditional marriage during which the appellant had stayed home and supported the respondent’s medical career. It was

uncontested that the appellant had psychological issues and as a result, at least since the parties' separation, had been unable to work. At the time of the motion for change, the respondent had been paying spousal support pursuant to the final order for approximately 11 years, was in his sixties and was looking to retire.

[7] In the court below, the appellant brought a motion to change. In response, the respondent sought to terminate spousal support.¹ The respondent's request was based on his intention to retire and the appellant's motion was based on the further deterioration of her health, increased medical expenses and continued inability to work.

[8] The appellant argued that, after the final order was made, her health continued to deteriorate resulting in higher medical and other necessary expenses. Her expenses increased from approximately \$28,000 in 2013 to a projected total of \$40,000 in 2022 and an estimated total of \$45,000 in 2024. The appellant maintained that her marriage with the respondent had been marred by family violence and that the post-traumatic stress disorder ("PTSD") from which she suffers, which prevents her from working, is attributable to that violence. These circumstances, the appellant submitted, justified awarding her spousal support in the high range, retroactive to January 1, 2014. She explained that the delay in

¹ The respondent initially brought a motion to terminate spousal support in Quebec, which was found to be the improper jurisdiction.

bringing her motion to change was caused by the respondent's refusal to provide ongoing disclosure of his income and her physical and mental health concerns.

[9] The motion judge accepted that the appellant suffers from PTSD, amongst other health issues, but was not prepared to find that the respondent was the sole cause of the appellant's PTSD. The motion judge went on to conclude that, based on the significant increase in her medical expenses, the appellant had met the threshold to establish that there had been a material change in circumstances, though she noted that the increase was partly due to the appellant's treatment choices.

[10] The motion judge also found that the respondent's retirement and corresponding decrease in income constituted a material change in circumstances. Although the final order granted in 2013 did not contemplate a termination date, there was no evidence that the court, at the time of granting the order, was able to assess the impact of retirement. In the result, the motion judge concluded that a review of spousal support and the corresponding obligation to maintain a one million dollar life insurance policy was warranted.

[11] Having found a material change in circumstances, the motion judge considered and applied s. 17(7) of the *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp.), which provides that a variation order varying a spousal support order should:

(a) recognize any economic advantages or disadvantages to the former spouses arising from the marriage or its breakdown;

(b) apportion between the former spouses any financial consequences arising from the care of any child of the marriage over and above any obligation for the support of any child of the marriage;

(c) relieve any economic hardship of the former spouses arising from the breakdown of the marriage; and

(d) in so far as practicable, promote the economic self-sufficiency of each former spouse within a reasonable period of time.

[12] The motion judge recognized that as a consequence of the parties' relationship, actions taken during their 25-year marriage and the appellant's mental and physical health, the appellant had been entitled to spousal support grounded in both compensatory and non-compensatory support. The motion judge noted that the respondent had paid over \$2.1 million in spousal support since separation and that the parties were then 63 and 62 years old. The motion judge noted that the appellant did not contest the respondent's move toward retirement and that the respondent accepted that the appellant was unable to return to work. The motion judge determined that the parties' net worths were, at the time of the motion, fairly similar, with the appellant's net worth being \$1,574,592.09 and the respondent's net worth being \$1,182,799.27.

[13] The motion judge then concluded that the appellant should continue to be entitled to compensatory support for a further two-year transitional period until September 30, 2026. By that point, the appellant would be 65 years old and the respondent would be 66 years old, and support should terminate as the objectives of spousal support will have been met.

[14] After reviewing the expert reports outlining the parties' expected retirement incomes and imputing the parties' incomes for 2024 to 2026, the motion judge determined that from June 1, 2024 to December 31, 2024 the respondent was to pay mid-range spousal support in the amount of \$5,999 per month. Because the respondent had continued to pay \$15,500 per month during this period, there had been an overpayment of \$9,501 per month since June 1, 2024.

[15] The motion judge then determined that for 2025 and 2026, based on mid-range support, the respondent was to pay \$1,423 per month. This would apply from January 1, 2025 to September 30, 2026.

[16] As for the appellant's claim for a retroactive adjustment to spousal support, the motion judge noted that the final order did not provide for annual adjustments nor did it require the exchange of financial disclosure by the parties. The motion judge was therefore not prepared to give effect to the appellant's submission that the respondent had engaged in blameworthy behavior by not providing financial disclosure after the final order was issued.

[17] The motion judge also rejected the appellant's claim that her mental and physical health ailments justified her failure to bring an earlier motion to vary the amount of support. The motion judge found that, since the final order was made, the appellant sought legal advice annually and the appellant's lawyer had repeatedly asked her to provide evidence in order to pursue her support claim. The

appellant waited until 2022 when the respondent began arranging his affairs to retire to bring that application. In those circumstances and considering the appellant's needs and the respondent's conduct, the motion judge determined that a retroactive award would create significant hardship for the respondent. She therefore dismissed the request for retroactive spousal support.

II. ISSUES

[18] The appellant submits that the motion judge made several errors, which I would summarize as follows:

- (a) The motion judge erred in determining that by September 30, 2026 the compensatory component of the support order would have been satisfied; and
- (b) The motion judge erred in failing to grant the appellant's application for a retroactive increase in the amount of spousal support.

III. ANALYSIS

1. The determination that compensatory support should end on September 30, 2026

[19] The appellant argues that it was an error for the motion judge to order the termination of spousal support by September 2026 given the length of the marriage, the appellant's numerous and serious medical conditions and the

strength of her ongoing compensatory claim. The appellant's compensatory claim was directly related to the economic consequences of it having been a long-term traditional marriage and of the violence she had suffered in the marriage.

[20] Further, the appellant submits that, having determined that there was a material change in circumstances due to the further deterioration of her health, her continued inability to work and her increased medical expenses, the motion judge failed to give appropriate weight to the impact of the domestic violence on the appellant's health and ability to earn income. While it was impossible to precisely quantify the association between the appellant's psychological issues and the respondent's abuse, that association had been established and was relevant to the analysis of the material change in circumstances and the appellant's request to vary the amount of spousal support. In the appellant's submission, the motion judge gave little or no weight to this important fact in coming to her decision.

[21] The appellant also submits that her compensatory and needs-based entitlement to spousal support, as recognized in the final order, continues to exist. She continues to suffer an economic disadvantage arising from her role during the parties' long-term marriage and its breakdown. Importantly, she also continues to suffer from a list of serious and debilitating medical issues, including chronic PTSD, which are attributable to the respondent's abuse.

[22] In the appellant's submission, the 11 years of support paid by the respondent pursuant to the final order had not adequately compensated her after a 25-year marriage. While the respondent's income continued to rise after separation, the amount of support he paid did not increase.

[23] I see no basis to interfere with the motion judge's decision. The motion judge gave comprehensive reasons for the order she made. She was clearly aware of and understood the appellant's health issues and the impact these had on her ability to work.

[24] The motion judge recognized and considered the link between the appellant's PTSD and the domestic violence issues raised in this case. However, she was not prepared to find that the respondent was the sole cause of the appellant's PTSD. There was medical evidence that the appellant reported having been abused by her father during childhood, which might also have played a role in her PTSD diagnosis. The motion judge further concluded that the increase in medical costs was partly due to the appellant's treatment choices.

[25] The standard of review for support orders involves significant deference. This is informed both by the discretion involved in making support orders and the importance of finality in family law litigation. An appeal court should only intervene where there is a material error, a serious misapprehension of the evidence, or an error of law. An appeal court is not entitled to overturn a support order simply

because it would have made a different decision or balanced the factors differently:

Hickey v. Hickey, [1999] 2 S.C.R. 518, at para. 12.

[26] The motion judge carefully considered the parties' full circumstances, including that the parties' net worths are similar. The motion judge referred to s. 19(e) of the *Spousal Support Advisory Guidelines: The Revised User's Guide* (Ottawa: Department of Justice, 2016) to the effect that a payor's retirement has an impact on the *Spousal Support Advisory Guidelines* analysis:

Eventually, as we get old enough, we all have to "live off our capital", to draw down our capital resources to pay for our current needs, especially those without pensions. RRSPs have to be converted into RRIFs (Registered Retirement Income Funds) or annuities. Businesses and farms have to be sold. Interest from investments becomes insufficient to fund daily needs.

See also *Schulstad v. Schulstad*, 2017 ONCA 95, 91 R.F.L. (7th) 84, at paras. 52, 60.

[27] The motion judge also considered *Boston v. Boston*, 2001 SCC 43, [2001] 2 S.C.R. 413, at para. 54, where the Supreme Court of Canada explained that, under a compensatory spousal support order, where a pension is equalized by way of a lump sum payment, the recipient has an obligation to use the assets equalized between the parties in an income-producing way for use upon the payor's retirement.

[28] The appellant has pointed to no reversible error in the motion judge's reasons or approach.

2. The dismissal of the appellant's application for a retroactive increase in the amount of spousal support

[29] The appellant submits that the motion judge erred in her consideration and application of the law respecting the award of retroactive spousal support. Specifically, the appellant argues that she was entitled to spousal support on both a compensatory and non-compensatory basis and that delay in bringing her application, standing alone, was not a sufficient reason to deny retroactive support. The appellant maintains that there were extenuating circumstances, including her health problems and the emotional and physical toll of the domestic abuse she suffered, that explained the delay. Finally, the appellant submits that the court must not reward the respondent for having improperly withheld financial disclosure.

[30] I am not persuaded by these arguments. The motion judge referenced the relevant jurisprudence. She found that the respondent had no ongoing disclosure obligations and that throughout the relevant period the appellant had the benefit of legal advice. The motion judge was fully aware of the needs and circumstances of the appellant and weighed these against the hardship a retroactive award may occasion on the respondent. In the result, she was not persuaded that a retroactive adjustment to the amount of spousal support was appropriate.

[31] I see no error in the motion judge's analysis that warrants interference with her conclusion.

IV. DISPOSITION

[32] For these reasons, I would dismiss the appeal and award costs to the respondent in the agreed upon amount of \$17,500 inclusive of disbursements and applicable taxes.

Released: June 10, 2026 "P.R."

"Paul Rouleau J.A."
"I agree. Thorburn J.A."
"I agree. L. Favreau J.A."