



**IN THE COURT OF APPEAL
OF NEWFOUNDLAND AND LABRADOR**

Citation: *S.R. v. Newfoundland and Labrador
(Manager of Child and Youth Services)*, 2026 NLCA 13

Date: April 24, 2026

Docket Numbers: 202501H0060
and 202501H0062

RESTRICTION ON PUBLICATION: There is a Publication Ban on the names and any other identifying information of the children referred to herein, as well as the names of their biological parents, relatives and foster families pursuant to section 55 of the *Children, Youth and Families Act*.

BETWEEN:

S.R.

APPELLANT

AND:

NEWFOUNDLAND AND LABRADOR
(MANAGER OF CHILD AND YOUTH SERVICES)

RESPONDENT

Coram: F.P. O'Brien J.A.

Court Appealed From: Supreme Court of Newfoundland and Labrador,
Family Division 202202F0386

Applications Heard: January 30, 2026
Decision Rendered: April 24, 2026

Counsel for the Appellant: Self-Represented
Counsel for the Respondent: Krista M. Atkins

Authorities Cited:

CASES CITED: *The Law Society of Newfoundland v. Fahey*, 2000 NFCA 19; *Stockwood v. Hayden*, 2010 NLCA 39; *Steele v. Rendell*, 2016 NLCA 37; *F.A. v. B.C.*, 2024 NLCA 30.

STATUTES CONSIDERED: *Children, Youth and Families Act*, SNL 2018, c. C-12.3, section 32(2)(d).

RULES CONSIDERED: *Court of Appeal Civil Rules, 2025*, rule 14.

F.P. O’Brien J.A.:

OVERVIEW

[1] The Supreme Court of Newfoundland and Labrador ordered that two of S.R.’s children be placed in the continuous custody of the Manager of Child and Youth Services (the “Manager”).

[2] The Supreme Court made two separate orders, following two separate hearings. Each order placed one of S.R.’s children in the Manager’s continuous custody. The two orders are referred to in this decision as the “July Order” and the “September Order”. The July Order was made with respect to S.R.’s younger child, and the September Order with respect to S.R.’s older child.

[3] S.R. has appealed the September Order. She filed a notice of appeal within the 30-day appeal period. The appeal has not yet been heard by this Court.

[4] S.R. wishes to appeal the July Order respecting her younger child. However, she did not file a notice of appeal within the 30-day appeal period. S.R. applies for an extension of time to appeal the July Order, which placed her younger child in the Manager’s continuous custody.

[5] In addition to the July Order and the September Order, S.R. also appealed a Supreme Court decision regarding interim access. Before being placed in the Manager's continuous custody, S.R.'s older child was in the Manager's temporary custody. While the child was in temporary custody, S.R. made an emergency interim application to the Supreme Court seeking access to the child. A Supreme Court Judge held that the requirements to bring the interim application were not met and, therefore, denied the application.

[6] S.R. appealed the interim access decision. That appeal has not yet been heard. The Manager applied to strike S.R.'s notice of appeal of the decision respecting interim access. If the interim access notice of appeal is struck, this does not impact S.R.'s right to appeal the continuous custody order regarding that child.

[7] Therefore, there are two applications presently before the Court: one brought by S.R. to extend the time to appeal the July Order, and the other by the Manager to strike the interim access appeal.

[8] For the reasons that follow, I would allow both applications.

S.R.'s application to extend the time to file a notice of appeal

[9] The following background is provided for context.

[10] There was a protective intervention hearing in the Supreme Court in March 2025 regarding S.R.'s younger child. A Supreme Court Judge, in an order filed July 8, 2025, declared that the child was in need of protective intervention pursuant to the *Children, Youth and Families Act*, SNL 2018, c. C-12.3 (the "*Act*"), and ordered that the child be placed in the continuous custody of the Manager, pursuant to section 32(2)(d) of the *Act*.

[11] S.R. did not file a notice of appeal within the required 30-day appeal period. Approximately two weeks after the appeal deadline, S.R. filed an application to extend the time to file the notice of appeal. She seeks to set aside the July Order placing the child in the Manager's continuous custody, and she has provided a draft notice of appeal to be filed should the deadline be extended.

[12] Subsequently, S.R.'s older child was also ordered to be placed in the Manager's continuous custody. A protective intervention hearing occurred in September 2025, and on September 26, 2025, a Supreme Court Judge ordered that

the child be placed in the continuous custody of the Manager, pursuant to the *Act*. S.R. has appealed against that order and, as noted above, the notice of appeal in that matter was filed within the appeal period. The appeal has not yet been heard.

[13] As one of S.R.'s notices of appeal was not filed within the 30-day period, she has applied for an extension of time. Authority to extend time is found in rule 14 of the *Court of Appeal Civil Rules, 2025*, which states that the "Court may extend or abridge any time prescribed by these rules before or after the expiration of that time".

The factors to be considered on an application to extend time

[14] In *The Law Society of Newfoundland v. Fahey*, 2000 NFCA 19, at paragraph 3, this Court identified factors to be considered on an application to extend the time for filing a notice of appeal. These include:

1. whether the appellant had a *bona fide* intention to appeal within the appeal period;
2. whether there is a reasonable excuse for the failure to comply with the rule;
3. the potential merits of the appeal; and
4. the presence of any exceptional or special circumstances justifying or working against the fairness of an extension.

[15] Notably, these factors "need not all be satisfied in every case and they are not exhaustive" (*Stockwood v. Hayden*, 2010 NLCA 39, at para. 14; see also *Steele v. Rendell*, 2016 NLCA 37, at para. 11).

[16] The first two factors will be considered together.

(i) *Bona fide* intention to appeal

(ii) Reasonable excuse for the failure to comply with the rule

[17] The first factor considers whether the applicant had a *bona fide* intention to appeal "within the appeal period" (*Fahey*, at para. 3; *Steele*, at para. 11). The second

factor considers whether there was a reasonable excuse for not complying with the 30-day appeal rule.

[18] S.R. explained that she had been represented by a lawyer with the Newfoundland and Labrador Legal Aid Commission (“Legal Aid”) during the continuous custody hearing in the Supreme Court.

[19] S.R. advised that she received notice of the Supreme Court’s decision (ordering that her younger child be placed in the Manager’s continuous custody) by telephone from her lawyer. S.R. stated that she wished to appeal and that she took steps to determine whether she would be represented by Legal Aid on appeal. She described her communications with Legal Aid regarding possible representation on appeal. She advised that she attempted to contact Legal Aid, by telephone and by attending at their office in person, during the appeal period, seeking information on the status of possible representation on appeal.

[20] She described difficulty in obtaining information before she was ultimately advised that she would have to re-apply for a Legal Aid lawyer to represent her on appeal. She indicated that she decided to file a notice of appeal on her own, before a determination by Legal Aid was finalized, to avoid further delay in filing. By this time, the appeal period had expired, and she was advised that she would have to apply to extend the appeal time.

[21] Based on the written materials in the application and S.R.’s oral submissions, I would conclude that S.R. has demonstrated that she had a *bona fide* intention to appeal within the appeal period and that, in these circumstances, “there is a reasonable excuse for the failure to comply with the rule”.

[22] The third and fourth factors will also be considered together.

(iii) Potential merits of the appeal

(iv) Exceptional or special circumstances justifying or working against the fairness of an extension

[23] I will consider the fourth factor first. This Court assesses whether there are any exceptional or special circumstances justifying or working against the fairness of an extension of time.

[24] In this context, for the reasons that follow, I would conclude that there are exceptional circumstances “justifying ... the fairness of an extension of time” (*Fahey*, at para. 3).

[25] As noted above, two of S.R.’s children were placed in the continuous custody of the Manager pursuant to two separate orders of the Supreme Court. S.R. has a right to appeal one order, as she filed the appeal in time. However, she has no right to appeal the other order unless the time to appeal is extended. The evidence in both decisions was similar in many respects. Both decisions reviewed child protection concerns respecting S.R. The September 2025 decision (which has been appealed) references and accepts the findings of the July 2025 decision, which S.R. intends to appeal if time is extended.

[26] S.R.’s appeal respecting her older child and S.R.’s request to extend time to appeal respecting her younger child are directly connected. In the circumstances, it would be inappropriate to allow an appeal against one of the orders, while not granting an extension of time to allow an appeal against the other order.

[27] While the two appeals relate to two different children, and there may be certain issues that are specific to one or the other child, it appears that both appeals would be focused on S.R.’s parenting and child protection concerns. There is overlap in terms of the arguments that would likely be made in both matters, and in the findings of the Supreme Court in ordering that both children be placed in the Manager’s continuous custody.

[28] The record confirms that both matters addressed child protection concerns and risks regarding S.R.’s parenting. For example, the July 2025 decision considered S.R.’s substance abuse and addictions history, coping ability, mental health, domestic violence issues, and S.R.’s engagement in recommended services and supervised access. The Judge made findings about various child protection concerns that existed at that time and ordered that the child be placed in the Manager’s continuous custody.

[29] Similarly, in the September 2025 decision, the Judge considered whether S.R. had made progress regarding the child protection concerns found to exist in the July 2025 decision. The September 2025 decision references specific paragraphs and findings in the July 2025 decision.

[30] The September 2025 decision was characterized as a review to determine whether S.R. had made progress in addressing the areas of concern articulated in the July 2025 decision. The Judge in the September 2025 decision reviewed the July 2025 decision and concluded that many of the same concerns remained. As a result, the Judge ordered that the older child be placed in the Manager's continuous custody.

[31] At present, S.R. has the right to appeal the September Order only. Unless the time to appeal the July Order is extended, S.R. cannot appeal the conclusions and findings of the July 2025 decision, notwithstanding that these were accepted and featured prominently in the September 2025 decision.

[32] The Supreme Court decisions are so closely related, both in time and in substance, that it would be inappropriate to allow one appeal to proceed while denying a right to appeal the other. Fairness dictates that an extension be provided in these circumstances.

[33] Failing to allow an extension of time in these circumstances could possibly yield an incongruous result regarding both children. The mere possibility of different outcomes for the children arising from a refusal to extend time to appeal should be avoided.

[34] The more appropriate approach would be to have both appeals of the continuous custody orders proceed and be heard by this Court at the same time.

[35] In the present context, I am satisfied that the circumstances described above are exceptional or special circumstances that would justify an extension of time, to enable the appeals of the July Order and the September Order to be heard at the same time.

[36] Regarding the third factor, the potential merits, on an application to extend time this Court does not actually determine the merits of the appeal. An applicant need not show that their position would ultimately prevail. Rather, the Court considers the "potential merits of the appeal", in light of the available materials in the record and the oral submissions (*F.A. v. B.C.*, 2024 NLCA 30, at paras. 33-34, 51).

[37] S.R. is self-represented on appeal. In filing her notice of appeal, "the task of identifying and articulating possible errors and grounds of appeal is obviously more difficult without legal representation" (*F.A.*, at para. 52).

[38] On the application to extend time, S.R. articulated various arguments as to why the orders for continuous custody should be reviewed by this Court. While the arguments may or may not ultimately prevail on a merits appeal hearing, these arguments will be made by S.R. in the matter which she has already appealed as of right, and the same arguments would pertain in the matter in which she seeks an extension of time.

[39] Based on S.R.'s submissions in this application, the arguments on the merits of the appeal are likely to be substantially similar and, perhaps in some instances, identical to the arguments S.R. will advance on the related appeal that she has commenced respecting her older child. The factual context in this matter is relevant in that there is an appeal of a continuous custody order related to S.R.'s other child, and the matters and decisions in question are closely linked.

[40] As the matters are closely connected, there would appear to be no injustice in allowing what would likely be the same arguments to be made in the context of both appeals. In these circumstances the third factor, which concerns the potential merits of the appeal, is not determinative of the application to extend time.

Conclusion on the application to extend time

[41] Considering all factors I would conclude that, on balance, the factors militate in favour of extending the time limit for filing a notice of appeal in this circumstance.

[42] In the result, the application for an extension of time to file the notice of appeal is allowed.

The Manager's application to strike S.R.'s notice of appeal regarding the interim application decision

[43] In August 2025, while S.R.'s older child was in the Manager's temporary custody, S.R. filed an Emergency Interim Application in the Supreme Court (the "Interim Application"). S.R. sought a temporary order for immediate supervised parenting.

[44] A Supreme Court Judge dismissed the application and filed a written endorsement on August 15, 2025. The Judge noted that permission was required to proceed with the Interim Application in these circumstances.

[45] The Judge held that S.R. did not meet the requirements for permission to proceed with the Interim Application. In dismissing the application, the Judge also noted that a continuous custody hearing regarding the child was scheduled for the following month.

[46] In September 2025, the continuous custody hearing was held and the child's status changed. The Supreme Court, in an order filed September 26, 2025, ordered that the child be placed in the Manager's continuous custody.

[47] In light of this change from temporary to continuous custody, the Manager applied to strike S.R.'s notice of appeal of the Interim Application decision.

[48] In these circumstances, I would agree that it is appropriate to strike S.R.'s notice of appeal. This notice of appeal concerns a decision denying S.R. permission to bring the Interim Application while her child was in the temporary custody of the Manager. S.R.'s Interim Application requested that the Supreme Court make a temporary order pending a final determination of the matter, which occurred on September 26, 2025, when a continuous custody order was filed.

[49] The matter is no longer interim in nature, as a continuous custody order was subsequently filed. The interim context for any further consideration of the application no longer exists. Accordingly, it would not be appropriate to proceed with an appeal of the Judge's denial of permission to bring the Interim Application, given that a continuous custody order has been made.

[50] As noted above, S.R. has filed a notice of appeal regarding the continuous custody order for the child in question. The focus should now be on that appeal. To the extent, if any, that the concerns or arguments that S.R. wished to address in the Interim Application might be relevant to the appeal, they may be incorporated into S.R.'s submissions on the appeal of the continuous custody order.

[51] Accordingly, I would allow the Manager's application to strike the notice of appeal regarding the Interim Application decision.

SUMMARY AND DISPOSITION

[52] S.R.'s application to extend the time to file a notice of appeal regarding the July Order is allowed. The Manager's application to strike S.R.'s notice of appeal regarding the Interim Application is also allowed.

[53] In the result, there are two notices of appeal remaining before this Court. One relates to the July Order concerning the Manager's continuous custody of S.R.'s younger child, and the other relates to the September Order concerning the Manager's continuous custody of S.R.'s older child.

[54] Both appeals shall be heard by the Court at the same time. Once the required materials have been filed, a date can be requested to hear the appeals. If necessary, the parties may apply for directions regarding the filing of materials on appeal, or any related matter.

[55] There shall be no order for costs on the applications.

F.P. O'Brien J.A.