COURT OF APPEAL OF YUKON

Citation: *R. v. P.S. Sidhu Trucking Ltd.*, 2026 YKCA 7

Date: 20260427
Docket: 26-YU940

Between:

Rex

Respondent

And

P.S. Sidhu Trucking Ltd.

Applicant/Appellant

Before: The Honourable Madam Justice DeWitt-Van Oosten
(In Chambers)

On appeal from: An order of the Supreme Court of Yukon, dated January 19, 2026 (*R. v. Sidhu*, 2026 YKSC 1, Whitehorse Docket 25-AP012).

Counsel for the Applicant/Appellant (via videoconference):	L. Soper
Counsel for the Respondent:	A. Porteous
Place and Date of Hearing:	Whitehorse, Yukon April 17, 2026
Place and Date of Judgment:	Whitehorse, Yukon April 27, 2026

Summary:

This is an application for an extension of time to seek leave to appeal in an ongoing regulatory prosecution. If an extension is granted, the applicant also applies for leave. Held: Applications dismissed. There is no reasonable possibility of success in the proposed appeal. Accordingly, the criteria for an extension of time have not been met. The Supreme Court judge correctly held this was an interlocutory appeal and that she had no jurisdiction to grant an extension of time or to hear the appeal.

Reasons for Judgment of the Honourable Madam Justice DeWitt-Van Oosten:

Introduction

[1] These reasons address two applications: (a) an application for an extension of time to seek leave to appeal; and (b) if an extension is granted, an application for leave to appeal.

[2] Both applications arise from a decision in the Supreme Court of Yukon dated January 19, 2026.

Background

[3] The appellant, P.S. Sidhu Trucking Ltd. (“Sidhu Trucking”), is a corporate defendant in an ongoing regulatory prosecution in the Territorial Court. The prosecution is for offences under the *Environment Act*, R.S.Y. 2002, c. 76 and the *Special Waste Regulations*, O.I.C. 1995/047.

[4] The prosecution began in 2023. Sidhu Trucking pleaded not guilty and initially, the company was represented by a lawyer. A trial was scheduled for September 2024. Just before the trial commenced, the lawyer withdrew as counsel of record. Consequently, the trial dates were vacated. Since then, Mandeep Sidhu has been appearing in the Territorial Court on behalf of Sidhu Trucking. He is a director of the company.

[5] The parties have not secured a new trial date in the Territorial Court. The litigation remains ongoing. I understand the trial is effectively on hold, awaiting resolution of the questions before me.

[6] On July 2, 2025, in response to concerns raised by the Crown, a Territorial Court judge ruled that Mr. Sidhu's representation of Sidhu Trucking contravened the *Legal Profession Act, 2017*, S.Y. 2017, c. 12. That ruling is indexed at 2025 YKTC 36. The judge had the assistance of *amicus* in reaching this determination.

[7] Sidhu Trucking appealed that ruling to the Supreme Court of Yukon under s. 813 of the *Criminal Code*, R.S.C. 1985, c. C-46. Section 813(a)(i) allows a defendant in a summary conviction proceeding to appeal to the Supreme Court from a conviction or "order" made against them.

[8] Sidhu Trucking filed its notice of appeal two days after the prescribed deadline for filing. As such, it required an extension of time. On January 19, 2026, the Supreme Court denied an extension: *R. v. Sidhu*, 2026 YKSC 1.

[9] At that hearing, the Crown argued the Supreme Court did not have jurisdiction to grant an extension, or indeed, to hear an appeal from the Territorial Court order because the order was interlocutory and there is a general rule against interlocutory appeals in criminal or regulatory prosecutions: at para. 14.

[10] The judge agreed the order was interlocutory and that she did not have jurisdiction to grant an extension of time or to stand in appellate review:

> [26] … It is a decision on a collateral matter related to the trial process, but has no bearing on the determination of the substantive regulatory prosecution issues. Like the decision to remove defence counsel in [*R. v. Druken*, [1998] 1 S.C.R. 978, 1998 CanLII 832], it can be reviewed after the trial through the normal appeal process. If the Territorial Court judge is found to be in error, and Sidhu Trucking should have been allowed to be represented by Mandeep Sidhu, then the final decision in the matter may be affected. Costs may be awarded if the appeal is successful. In other words, Sidhu Trucking will still have a remedy.

[11] The judge went on to hold that the case did not meet the criteria for any exception to the rule against interlocutory appeals. Earlier in her reasons, she cited *R. v. Rodrigue* (1994), 95 C.C.C (3d) 129, 1994 CanLII 16620 (Y.C.A.) as having allowed for exceptions. In that case, this Court held:

> [33] … there is no jurisdiction to appeal from an order made in the midst of, and as part of, the trial process unless that order is made without jurisdiction, or is unrelated to the trial process, or amounts to an acquittal …
>
> [Emphasis added.]

[12] The judge noted that if she did have jurisdiction to grant an extension of time, she would have done so. She was satisfied Sidhu Trucking had a *bona fide* intention to appeal the Territorial Court ruling and had satisfactorily explained the delay in filing. The Crown was aware of the intention to appeal and would not be prejudiced by an extension. Finally, there had only been a short delay: at paras. 31–38.

Discussion

[13] Sidhu Trucking filed a notice of appeal from the Supreme Court judgment in this Court and an application for an extension of time on February 26, 2026. The notice of appeal alleges the judge erred in holding there was no jurisdiction to hear the appeal. It exceeded the prescribed filing deadline by about eight days.

[14] An application for leave to appeal was filed on March 20, 2026.

Leave to appeal

[15] To appeal the Supreme Court judgment, Sidhu Trucking requires leave to appeal under s. 839(1) of the *Criminal Code*:

> **839 (1)** Subject to subsection (1.1), an appeal to the court of appeal as defined in section 673 may, with leave of that court or a judge thereof, be taken on any ground that involves a question of law alone, against
>
> **(a)** a decision of a court in respect of an appeal under section 822; or
>
> **(b)** a decision of an appeal court under section 834, except where that court is the court of appeal.
>
> [Emphasis added.]

[16] Leave to appeal is not granted under this provision unless an applicant can show that: (a) the proposed grounds of appeal involve questions of law alone; (b) the issues raised by the appeal are important; and (c) there is sufficient merit to the appeal that it has a reasonable possibility of success: *R. v. Winfield*, 2009 YKCA 9 at

paras. 11–14. The overriding consideration is whether leave is warranted in the interests of justice: *Winfield* at para. 13.

[17] Applications for leave to appeal are properly focused on the decision of the summary conviction appeal court, not the trial court. The question is whether the summary conviction appeal judge committed an error of law: *Winfield* at para. 12.

[18] In its written material, Sidhu Trucking contends that if granted an extension of time, it is not required to seek leave to appeal because s. 839(1) does not govern appeals that were initiated in the Supreme Court under s. 813. This is not correct. Section 839(1)(a) applies to any "decision of a court in respect of an appeal under section 822" of the *Criminal Code.* Section 813 appeals are resolved through the processes and the powers prescribed by s. 822(1). Effectively, a s. 813 appeal is a s. 822 appeal for purposes of s. 839(1)(a).

Analysis

[19] In my view, Sidhu Trucking cannot meet the criteria for leave to appeal under s. 839(1) because there is no reasonable possibility of success in challenging the Supreme Court's jurisdictional ruling.

[20] Consequently, there is no principled basis on which to grant an extension of time to file its notice of appeal. I see no point in granting an extension, as the application for leave to appeal is bound to fail. Assessing the merits of the proposed appeal forms an integral part of the extension analysis (*R. v. Carlick*, 2018 YKCA 5 at para. 33 (Chambers)) and it is not in the interests of justice to grant an extension in an unmeritorious appeal: *R. v. Buencamino*, 2012 BCCA 265 at paras. 8, 13–14 (Chambers); *R. v. Agopsowicz*, 2020 BCCA 150 at para. 7 (Chambers).

[21] As explained in *R. v. Holland*, 2019 BCCA 417:

> [12] It is "well-established that interlocutory appeals are not available in either indictable or summary conviction matters": [*R. v. Verma,* 2016 BCCA 307] at para. 23. Among other things, this rule avoids fragmented and delayed proceedings; ensures that the appeal court does not decide issues properly left to the trial judge; and prevents unnecessary appeals where the outcome of the case in the court below renders the interlocutory ruling moot: *R. v. Boutilier*, 2016 BCCA 24 at para. 42. In light of the public policy objectives, a party dissatisfied with an interlocutory ruling in a prosecution by indictment [or by summary conviction] must generally wait until the trial has completed before challenging the ruling on appeal: *Boutilier* at para. 42.

[22] *Holland* involved a prosecution for a *Criminal Code* offence. Sidhu Trucking is not defending a *Criminal Code* prosecution; rather, it has been charged with regulatory offences. However, the prosecution is proceeding under the *Summary Convictions Act*, R.S.Y. 2002, c. 210, and s. 2.01(2) of that statute incorporates the *Criminal Code*'s summary conviction appeal provisions:

> (2) For greater certainty, every provision of the *Criminal Code* that applies to an appeal of a summary conviction matter or proceeding applies to an appeal of a summary conviction matter or proceeding under this Act.
>
> [Emphasis added.]

[23] As such, consistent with the conclusion reached in *R. v. Fraser Papers (Canada) Inc.*, 301 N.B.R. (2d) 95, 2006 CanLII 6749 (C.A.), the rule against interlocutory appeals applies.

[24] Before me, Sidhu Trucking did not take issue with this proposition. Instead, it argued the Territorial Court order was not an interlocutory order and granting an extension of time and leave to appeal would therefore not offend the rule against interlocutory appeals.

[25] I disagree. In my view, the order made in the Territorial Court is no different in substance than the order at issue in *R. v. Druken*, [1998] 1 S.C.R. 978, 1998 CanLII 832, and in the latter case, the order was held to be interlocutory.

[26] In *Druken*, counsel for the defence was removed to avoid a potential conflict of interest. On appeal to the provincial court of appeal, the majority held that the removal order was a final order: *R. v. Druken*, 486 A.P.R. 93, 1997 CanLII 14674 (Nfld. C.A.) [*Druken CA*]. The dissenting judge disagreed, concluding that the order

addressed a collateral matter and although it was final in respect of the collateral matter, it was "not determinative of the matter before the court" and was therefore interlocutory in nature: *Druken CA* at para. 29.

[27] On further appeal, the Supreme Court of Canada agreed with the dissent. It held that a decision to "remove counsel is to be reviewed after the trial through the normal appeal process set out by the *Criminal Code*": at para. 1, emphasis added. In other words, the removal order was interlocutory in nature and could not be appealed until the prosecution had completed.

[28] Mr. Sidhu is not a lawyer. However, functionally, the order he sought to challenge in the Supreme Court of Yukon had the same effect as the order in *Druken*—it removed Mr. Sidhu from the case and prohibited him from representing the corporate defendant in the prosecution. However, it did not determine the prosecution itself.

[29] In dismissing the application for an extension of time, the Supreme Court judge described the Territorial Court order as a "decision on a collateral matter related to the trial process, but [one that had] no bearing on the determination of the substantive regulatory prosecution issues": at para. 26. Sidhu Trucking argues she mischaracterized the order. In my view, she got it right and her analysis is consistent with *Druken*, a decision that is binding on both the Supreme Court and this Court.

[30] At the hearing in the Supreme Court, Sidhu Trucking attempted to support its jurisdictional argument with reference to *Pardy v. Newfoundland and Labrador*, 2014 NLCA 37.

[31] In that case, the Court of Appeal for Newfoundland and Labrador found it had jurisdiction to hear a pre-trial appeal that challenged an order denying an application for state-funded counsel in a *Criminal Code* prosecution. In accepting jurisdiction, the Court distinguished the case from *Druken* on several bases, including the fact that the respondent to the application for state-funded counsel was not the prosecutor but the provincial Attorney General in their "general capacity as the

government officer responsible for the administration of justice and the dispensing of public funds": at para. 19. The application arose in the context of criminal litigation, but the issue decided in the application did not "relate, substantively or procedurally, to the criminal charge": at para. 29. Instead, it involved matters that were properly characterized as "civil, administrative or constitutional": at para. 38, emphasis added.

[32] On a plain reading of *Pardy*, it is readily apparent that the appeal in that case was treated as a civil appeal and jurisdiction to stand in appellate review was found on that basis, rather than through the *Criminal Code*. Indeed, at one point in its analysis, the Court stated that the application for state-funded counsel, and presumably any appeal arising from that application, should have been brought separate from the criminal prosecution and with the province named as the respondent, rather than the Crown in its role as prosecutor: at para. 32.

[33] *Pardy* is qualitatively different from *Druken* and from this case, and the Supreme Court judge was correct to distinguish it.

[34] As an alternative argument in support of jurisdiction, Sidhu Trucking submits that even if the Territorial Court order is an interlocutory order, the Supreme Court judge had the authority to grant an extension of time and to hear a s. 813 appeal on grounds that the appeal was exceptional. She declined to exercise that authority, taking an unduly narrow approach to exceptions to the rule against interlocutory appeals. Sidhu Trucking says this was an error of law and raises important questions to the practice of criminal law, generally, such that an extension of time and leave to appeal in this Court is warranted.

[35] As I understand this argument, Sidhu Trucking says that at best, the rule against interlocutory appeals in criminal and regulatory matters establishes a rebuttable presumption. A defendant is free to rebut that presumption based on the individual circumstances of their case. If they can show there are compelling reasons why they should be allowed to proceed with an appeal (because of an impact on their ability to make full answer and defence or otherwise), there is nothing precluding the appeal court from taking jurisdiction and standing in review.

In this case, the effect of the Territorial Court order is to deprive Sidhu Trucking of its chosen (and less expensive) form of representation.

[36] The argument is stated this way in Sidhu Trucking's written material:

> The jurisprudence requires a broader, functional assessment of whether immediate review is necessary in the interests of justice, having regard to the nature and effect of the order under appeal.
>
> Restrictions on interlocutory recourse are judicially created and not absolute; they cannot be treated as the equivalent of a privative clause barring intervention. Where deferring review would undermine fairness or the proper administration of Justice, appellate intervention "can and will be exercised".
>
> By treating the availability of interlocutory review as turning solely on the formal application of limited exceptions, the [Supreme Court] failed to assess whether deferral would cause irreparable prejudice or result in proceedings conducted under unlawful constraints. That approach is inconsistent with the principled, justice-centred analysis required by the jurisprudence.
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> [Internal citations omitted; emphasis added.]

[37] Respectfully, I am of the view Sidhu Trucking misunderstands the exceptions to the rule against interlocutory appeals spoken of in *Rodrigue* and referred to by the Supreme Court judge in her reasons at paras. 14 and 20. Further, Sidhu Trucking's approach to the rule against interlocutory appeals would undermine the well-accepted rationale for that rule. It would open the door to interlocutory appeals as a matter of course, with the Supreme Court having to then conduct an individualized analysis in each case to determine whether the circumstances of the case warrant appellate review. As aptly noted by the respondent Crown, there are many interlocutory rulings in criminal and regulatory matters that a defendant would consider important to their case, including evidentiary rulings.

[38] As I read *Rodrigue*, this Court did not identify or allow for exceptions to the rule against a defendant's interlocutory use of the *Criminal Code*'s end-of-trial appeal provisions (ss. 813 and 830 for summary conviction appeals and s. 675 for indictable appeals). It did not hold that some orders, even though interlocutory in nature, may nonetheless be appealed under these provisions as long as there is a compelling reason for doing so. Rather, *Rodrigue* acknowledged the rule against interlocutory appeals but recognized that in some circumstances, there may be other

ways to access judicial review of an order during an ongoing criminal or regulatory prosecution. In other words, there may be paths for review and intervention by a higher court that lie outside of ss. 813, 830, and 675.

[39] In *Rodrigue*, the accused applied in the Territorial Court to have some of the Crown's disclosure provided to him in French. The preliminary inquiry judge declined jurisdiction, presumably on the basis that they did not have jurisdiction to grant a *Charter* remedy. The judge adjourned the preliminary inquiry to allow the accused opportunity to seek a remedy in the Supreme Court. The accused applied for disclosure in the Supreme Court, along with a stay of proceedings. Both orders were denied. He then sought to appeal those dismissals in this Court.

[40] One of the questions before this Court was whether the Supreme Court judge had jurisdiction to hear the applications brought by the accused. This Court held the Supreme Court had authority to grant relief under s. 24(1) of the *Charter*; as such, the accused was entitled to bring the application that he did, even though the proceeding in the Territorial Court remained ongoing: at para. 5. The application in the Supreme Court was not an appeal; rather, it was a first instance application for *Charter*-based remedies.

[41] Although the Supreme Court judge had jurisdiction to hear the application, this Court went on to hold there could be no appeal of the dismissal of that application until completion of the prosecution. Why? Because "appeal jurisdiction must be found in legislation" (at para. 32, emphasis added) and there was no *Criminal Code* provision allowing a right of appeal from a decision granting or refusing *Charter* relief: at paras. 11, 14–15. Accordingly, Mr. Rodrigue had to await completion of his prosecution in the Territorial Court and if convicted, he could appeal the conviction under s. 675 of the *Criminal Code* and raise the dismissal of his *Charter* application as a ground of appeal.

[42] Justice Hutcheon wrote for the Court in *Rodrigue.* In his analysis, he stated "there is no jurisdiction to appeal from an order made in the midst of, and as part of, the trial process unless that order is made without jurisdiction, or is unrelated to the

trial process, or amounts to an acquittal": at para. 33. Sidhu Trucking interprets this statement to mean that some orders are appealable by the defence under s. 813 of the *Criminal Code* (and, by logical extension, under ss. 830 and 675), even though they may be interlocutory in nature. As such, Sidhu Trucking says the Supreme Court judge was incorrect to declare she had no jurisdiction to entertain the appeal. She was duty-bound to conduct a more robust analysis of the circumstances of the case and the impact of the order on the defendant to determine whether an appeal was justified.

[43] I do not read para. 33 of *Rodrigue* that way. When considered in the context of all else addressed by Justice Hutcheon, including the authorities reviewed in his reasons, I interpret his comments to mean there can be no appellate review of orders made in the middle of a criminal or regulatory trial process utilizing the appeal provisions that ordinarily apply at the end of trial. However, there may be other available pathways to pre-trial judicial review, depending on the circumstances. An order made without jurisdiction in the Territorial Court, for example, may be reviewable mid-trial by way of an extraordinary remedy application in the Supreme Court (Part XXVI of the *Criminal Code*). A stay of proceedings before trial, which is tantamount to an acquittal, effectively puts an end to the prosecution. Consequently, it would trigger the Crown's right of appeal under ss. 813(b)(i) or s. 676 of the *Criminal Code.* In those circumstances, there would no longer be an ongoing prosecution and the rule against interlocutory appeals would not apply.

[44] Finally, Justice Hutcheon included orders "unrelated to the trial process" as potentially allowing for review before completion of a trial. The cases he pointed to in support of that proposition involved a constitutional challenge to legislation and a question about whether a convicted accused should serve her sentence in a particular custodial facility: at paras. 27–29. *Rodrigue* is unclear as to the statutory or other jurisdictional bases that would allow for a review of those types of orders. However, Justice Hutcheon found those cases, as well as others cited to him,

distinguishable from the one before him, which I take to mean they were not orders sought to be reviewed under ss. 813, 830, or 675.

[45] Before me, Sidhu Trucking pointed to *R. v. Watson*, 2007 BCSC 1707 as authority for the proposition that ss. 813 and 830 appeals from interlocutory orders are allowed in regulatory prosecutions where the interests of justice require immediate intervention by a superior court. As I read *Watson*, it simply recognizes (as did *Rodrigue*) that there may be cases in which a *Charter* application or an extraordinary remedy application appropriately attracts intervention by a superior court even though the trial proceedings remain ongoing: at paras. 11–12, citing *R. v. Johnson* (1991), 64 C.C.C. (3d) 20 at 24–25, 1991 CanLII 7174 (Ont. C.A.). It does not hold that this form of intervention is available through the appeal provisions. Indeed, *Johnson* (referred to in *Watson*), did not involve a s. 813, s. 830, or s. 675 appeal. Rather, that matter focused on a first instance application for a *Charter* remedy brought by a witness who was subpoenaed to give evidence at a preliminary inquiry.

[46] In this case, Sidhu Trucking sought to appeal the Territorial Court order utilizing s. 813 of the *Criminal Code.* The order was clearly interlocutory in nature and consistent with *Druken*, the challenge to the order must await completion of the trial. The Supreme Court judge was correct to hold that she had no jurisdiction and I see no possibility a division of this Court would find to the contrary.

Disposition

[47] For these reasons, I dismiss the application for an extension of time to file an application for leave to appeal. Neither the Supreme Court of Yukon nor this Court have jurisdiction to entertain a s. 813(a)(i) or s. 839(1) appeal from an interlocutory order and the proposed appeal is doomed to fail.

[48] Without an extension, the application for leave to appeal cannot proceed. Accordingly, that application is also dismissed.

"The Honourable Madam Justice DeWitt-Van Oosten"