

CANADA / JUDGMENT

Hamblett (Re)

2026 ONCA 9

COURT

Court of Appeal for Ontario

DECIDED

9 January 2026

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Hamblett (Re) Collection Decisions of the Court of Appeal Date 2026-01-09 Neutral citation 2026 ONCA 9 Docket numbers COA-25-CR-1025 Judges Huscroft, Grant; Coroza, Steve A.; Gomery, Sally A. Subject Criminal Decision Content COURT OF APPEAL FOR ONTARIO CITATION: Hamblett (Re), 2026 ONCA 9 DATE: 20260109 DOCKET: COA-25-CR-1025 Huscroft, Coroza and Gomery JJ.A. IN THE MATTER OF: Camelott Hamblett AN APPEAL UNDER PART XX.1 OF THE CRIMINAL CODE, R.S.C. 1985, c. C-46 Anita Szigeti, for the appellant Samuel Mazzuca, for the respondent Crown Julia Lefebvre, for the respondent Person in Charge of Waypoint Centre for Mental Health Heard: January 5, 2026 On appeal from the disposition of the Ontario Review Board, dated May 30, 2025, with reasons dated August 6, 2025. Huscroft J.A.:

- [1] This is an appeal from the May 30, 2025 disposition of the Ontario Review Board. The Board concluded that the appellant represents a significant threat to public safety and ordered his continued detention at the Waypoint Centre for Mental Health Care (“Waypoint”), in the High Secure Forensic Program.
- [2] The appellant does not contest that he is a threat to public safety, nor does he contest his continued detention at Waypoint. He argues that the Board acted unreasonably in refusing to order an independent assessment of his situation. He argues, further, that the Board erred in failing to order a Medication Assessment Program for Schizophrenia (“MAPS”) referral and pharmacogenetic testing.
- [3] I conclude that the Board’s refusal to order an independent assessment is unreasonable. I would allow the appeal and order an independent assessment and review of that assessment by the Board, as soon as possible, and in any event no later than the next annual review expected to be scheduled in June 2026. The Board can also consider the requested MAPS referral and pharmacogenetic testing at that hearing.

Background

- [4] The appellant is a 43-year-old man with diagnoses of schizophrenia and substance use disorders. He is incapable of consenting to treatment and his mother is his substitute decision maker.

- [5] On August 7, 2007, the appellant was found not criminally responsible on account of mental disorder on a charge of sexual assault and two charges of assault. He was then 23 years old.
- [6] The appellant has been detained at Waypoint since 2004. For most of that time he has been in seclusion. This has involved lengthy isolation from other Waypoint patients in a locked room, with only brief periods of “seclusion relief”. His seclusion is reviewed every 28 days. The appellant’s treating psychiatrist, Dr. Bouskill, testified that, during the last review period, the appellant had been out of seclusion on only two occasions for approximately two hours each time. He is currently subject to physical restraints during seclusion relief. The Board’s decision
- [7] At the hearing before the Board, the Hospital and the Crown jointly recommended no change to the appellant’s disposition. The appellant argued that his prolonged history at Waypoint demonstrated that a treatment impasse had been reached and requested that an independent assessment be made.
- [8] In answer to questions from the Board, Dr. Bouskill acknowledged the concern about the length of time the appellant had been at Waypoint, and the lack of progress, but testified that she did not believe a treatment impasse had been reached: [...] I don’t believe that there’s a treatment impasse at this time. He does have positive relationships with many of the people within his treatment team. As I have mentioned earlier, he continues to engage in assessment. There are a number of areas that we still have available to us in order to further optimize his treatment. So, I don’t think there’s a treatment impasse. Dr. Bouskill stated that a treatment impasse could be the result of a number of circumstances, but “at its core would be an inability for, for a patient and team to work together.”
- [9] The Board found that the Hospital and the appellant had not reached a treatment impasse. The entirety of the Board’s reasoning on this issue is contained in this passage: The Board does not find that the Hospital and Mr. Hamblett have reached a treatment impasse. There is a difference between a treatment impasse and a case that is difficult to treat. The recommendations from last year’s external consultation have been tried without much improvement but the Hospital is still looking for different options to manage Mr. Hamblett’s risk. Dr. Bouskill was receptive to suggestions for a MAPS referral as well as pharmacogenetic testing and the Board would encourage this to be completed in the coming year. Consequently, the Board declined to order an independent assessment and made no changes to the disposition. Discussion
- [10] The standard of review is set out in s. 672.78(1) of the Criminal Code, R.S.C., 1985, c. C-46: The court of appeal may allow an appeal against a disposition or placement decision and set aside an order made by the court or Review Board, where the court of appeal is of the opinion that
- (a) it is unreasonable or cannot be supported by the evidence;
 - (b) it is based on a wrong decision on a question of law; or

(c) there was a miscarriage of justice.

- [11] The question on this appeal is whether the Board's decision is reasonable. In other words, does the Board's reasoning process and the outcome it reached reflect an "internally coherent and rational chain of analysis [...] that is justified in relation to the facts and law"?: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653, at paras. 84-86.
- [12] I conclude that it does not. The Board's conclusion that there was not a treatment impasse is unreasonable, but, even if we were to accept the Board's conclusion, the refusal to order an independent assessment is plainly unreasonable in any event.
- [13] The appellant has been in some form of seclusion for almost the entirety of the 20-year period in which he has been detained at Waypoint. No meaningful progress has been made with his treatment, and there appears to be no real prospect of his situation improving. The Hospital expressed little confidence that any progress will be made. The best that can be said for the Hospital's position is that there remain things it can try, and that the appellant could possibly make some progress.
- [14] After 20 years, this will not do.
- [15] The Board drew a distinction between a treatment impasse and a case that is difficult to treat. This distinction is not easy to draw and is not relevant to whether an independent assessment is necessary in this case. The exercise of the Board's supervisory role is not contingent on a breakdown in the relationship between the treatment team and the patient – an "inability for a patient and team to work together", as Dr. Bouskill put it. It was incumbent on the Board to address the clear lack of progress in treating the appellant and to seek out more effective treatment opportunities: *Mazzei v. British Columbia (Director of Adult Forensic Psychiatric Services)*, 2006 SCC 7, [2006] 1 S.C.R. 326 at para. 42.
- [16] There is no reasonable basis to continue the current course of treatment without seeking an independent assessment. Such an assessment can do no harm and may do some good. But something must be done: the appellant cannot continue to languish in seclusion with no real prospect for improvement.
- [17] Accordingly, I would allow the appeal and issue the following order:
1. The parties shall confer about the terms of the independent assessment as soon as possible.
 2. If the parties cannot agree on the terms, the Board shall make any orders necessary to facilitate obtaining the independent assessment as soon as possible.
 3. The Board shall convene to review the matter as soon as possible following completion of the independent assessment, and in any event no later than the review scheduled for June, 2026. Released: January 9, 2026 "G.H." "Grant Huscroft J.A." "I agree. Coroza J.A." "I agree. S. Gomery J.A."

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