

CANADA / JUDGMENT

R. v. Andrew

2026 ONCA 264

COURT

Court of Appeal for Ontario

DECIDED

10 April 2026

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R. v. Andrew Collection Decisions of the Court of Appeal Date 2026-04-10 Neutral citation 2026 ONCA 264 Docket numbers COA-25-CR-1335 Judges Roberts, Lois B.; Coroza, Steve A.; Osborne, Peter J. Subject Criminal Decision Content COURT OF APPEAL FOR ONTARIO CITATION: R. v. Andrew, 2026 ONCA 264 DATE: 20260410 DOCKET: COA-25-CR-1335 Roberts, Coroza and Osborne JJ.A. BETWEEN His Majesty the King Respondent and Brenda Andrew Appellant Margaret Bojanowska, for the appellant Kevin Chan, for the respondent Heard: April 2, 2026 On appeal from the sentence imposed by Justice Michael Code of the Superior Court of Justice on September 27, 2024, with reasons reported at 2024 ONSC 5348. REASONS FOR DECISION

- [1] This is an appeal from sentence. On February 2, 2024, the appellant pled guilty to a large-scale fraud that she perpetrated against her former employer, Vertechs Design Inc. (“Vertechs”), over a number of years. She was given a custodial sentence of two years less a day.
- [2] Following the appellant’s submissions, we dismissed the sentence appeal with reasons to follow. These are our reasons.
- [3] The appellant’s overarching submission is that the sentencing judge erred by failing to consider the availability of and impose a conditional sentence. She argues that he overemphasized her dated criminal record and failed to give appropriate weight to mitigating and collateral circumstances.
- [4] We are not persuaded that the sentencing judge made any error. He carefully considered the relevant aggravating and mitigating circumstances of this case and concluded that a conditional sentence was inappropriate. We agree.
- [5] The appellant was responsible for Vertechs’s payroll, bookkeeping and payments to vendors and suppliers, and she was the sole responsible authority for the company’s accounts, including the payroll system. Over several years, the appellant regularly abused her position of trust and stole over \$210,000 by carrying out relatively sophisticated fraudulent schemes and forgeries.

- [6] Between April 2016 and July 2018, the appellant used a company credit card, which she had been instructed to cancel, to make numerous personal purchases of \$39,646.24, including clothing, restaurant meals, entertainment and an overseas holiday with her daughter. She paid for the credit card bills from these purchases with cheques drawn on the company's bank account.
- [7] Further, between April 2016 and January 2019, she issued 45 fraudulent payments to herself through the payroll system, totaling \$171,072.88 after deductions. She attempted to conceal these payments by forging T4 slips that inflated other employees' incomes and decreased her own.
- [8] There were serious aggravating factors in this case. The appellant's actions had a devastating effect on Vertechs, a small landscape architectural company, that struggled tremendously and remained unprofitable for the period of the appellant's ongoing fraud.
- [9] Another aggravating factor, properly considered by the sentencing judge, is that the appellant was not a first-time offender. Prior to the present conviction, she had a significant criminal record spanning many years for crimes of dishonesty: 1980, 1984, 1993, 2012 and 2015. The sentencing judge emphasized the 2012 and 2015 convictions for fraud and theft against former employers that were remarkably like the present fraud. In 2012, after being convicted of three counts of fraud over \$5,000, the appellant received a one-year conditional sentence and a \$35,070 restitution order was imposed, which the sentencing judge noted had not been paid. With respect to the 2015 conviction for the theft of \$1,380 in cash that she should have deposited into her employer's bank account, she was sentenced to a fine of \$1,000 and one year of probation. As the sentencing judge properly noted, these convictions, combined with the present offence, "show a consistent and apparently entrenched pattern of stealing from and defrauding a series of employers."
- [10] The sentencing judge gave substantial weight to the only significant mitigating factors in this case: the appellant's guilty plea and her substantial restitution to her former employer of \$210,000. As he was entitled to do, he gave little weight to the appellant's middle age, her apparently stable health issues and sporadic visits to her mother who resides in a long-term care home in Winnipeg. It is common ground that the sentencing range for this kind of fraud is three to five years: *R. v. Bogart* (2002), 61 O.R. (3d) 75 (C.A.), at para. 36, leave to appeal refused, [2002] S.C.C.A. No. 398; *R. v. Scholz*, 2021 ONCA 506, 156 O.R. (3d) 561, at para. 18. The custodial sentence of two years less a day was a substantial reduction from the applicable sentencing range and reflected the significant weight that the sentencing judge gave to the mitigating factors.
- [11] As the sentencing judge correctly found, "there is a strong need for both specific deterrence and general deterrence in this case". He concluded that a conditional sentence was inappropriate in light of the appellant's response to the earlier conditional sentence imposed for the 2012 conviction. Specifically, 51 days after she completed the conditional sentence for the 2012 conviction, she began to engage in the fraud that formed the basis for

her 2015 conviction. Similarly, the appellant started defrauding Vertechs approximately two months after she completed her probation order from the 2015 conviction.

[12] The previous lenient sentences have failed to deter the appellant from engaging in virtually the same fraudulent activity. We agree with the sentencing judge's conclusion that: "This case requires a degree of both specific and general deterrence that can only be provided by a jail sentence."

[13] There is no basis to intervene.

Disposition

[14] The sentence appeal is therefore dismissed. "L.B. Roberts J.A." "S. Coroza J.A." "P.J. Osborne J.A."

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