

CANADA / JUDGMENT

R. v. Beljour

2026 ONCA 40

COURT

Court of Appeal for Ontario

DECIDED

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R. v. Beljour Collection Decisions of the Court of Appeal Date 2026-01-23 Neutral citation 2026 ONCA 40 Docket numbers COA-24-CR-0442 Judges van Rensburg, Katherine; Thorburn, Julie; George, Jonathon C. Subject Criminal Decision Content COURT OF APPEAL FOR ONTARIO CITATION: R. v. Beljour, 2026 ONCA 40 DATE: 20260123 DOCKET: COA-24-CR-0442 van Rensburg, Thorburn and George JJ.A. BETWEEN His Majesty the King Respondent and Jeson Beljour Appellant Stephen Whitzman, for the appellant Allyson Ratsoy and Connor Macorin, for the respondent Heard: December 15, 2025 On appeal from the convictions entered by Justice Claudia C. Belda Perez of the Ontario Court of Justice, on October 17, 2023. REASONS FOR DECISION

- [1] This is an appeal from convictions for possession of fentanyl for the purpose of trafficking, possession of the proceeds of crime, and obstruction of a peace officer. The appellant argues that the trial judge erred by 1) failing to scrutinize the evidence of the Crown's principal witness, Nicole Bizzarino, and by finding that corroborative evidence confirmed her version of events; 2) refusing to draw an adverse inference against the Crown for not calling Kenneth Illson, Ms. Bizzarino's then partner, as a witness; 3) giving weight to the fact the appellant did not testify or call evidence, and 4) finding that the appellant's guilt was the only reasonable inference available on the evidence. Background Facts
- [2] In June 2017, the appellant moved into Ms. Bizzarino and Mr. Illson's two-bedroom apartment. Ms. Bizzarino and Mr. Illson become acquainted with the appellant, also known as "Jimmy", by purchasing drugs from him. The arrangement was that the appellant would stay in their spare bedroom in exchange for drugs. The appellant did not have his own key and had to be buzzed into the apartment each time he entered. He was sometimes accompanied by a man named "Kurt".
- [3] On June 17, 2017, the police executed a search warrant at the apartment as part of an ongoing investigation into the appellant. Earlier that day, a Canada Post package containing drugs was delivered to the unit. When the police arrived, the appellant went to the bathroom to flush the drugs down the toilet but could not do so as the water had been shut off. He then handed the drugs to Ms. Bizzarino. Police arrested the appellant and Mr. Illson inside the apartment. On their way out, the police observed Ms. Bizzarino walking back towards the apartment. They arrested her as well. Ms. Bizzarino testified that she went downstairs to the

ground floor to conceal the drugs. Several police officers testified that they retrieved a bag containing a substance that resembled fentanyl, tucked behind a pipe on the ground floor.

- [4] Police recovered 550.2 grams of fentanyl, \$15,250 in cash, and three cellphones, among other items. While in the apartment, they observed one of the cellphones buzzing with messages addressed to “Jimmy” asking for drugs. Several baggies were found in the bathroom, one with fentanyl residue. Clothing, cigars, and a bag of toiletries belonging to the appellant were found in the spare bedroom.
- [5] Ms. Bizzarino and eight police witnesses testified at trial. The defence did not call any witnesses.
- [6] The trial judge refused to draw an adverse inference against the Crown for not calling Mr. Illson as a witness. She also noted that, while the defence was not obliged to call evidence, she could consider the absence of evidence “to support any other reasonable inference consistent with [the appellant’s] innocence.”
- [7] In the end, the trial judge found Ms. Bizzarino to be a credible witness. She accepted Ms. Bizzarino’s evidence that the drugs were the appellant’s, despite her testimony that she had initially lied to the police, was in the throes of an addiction, and had a criminal history. The trial judge concluded that while Ms. Bizzarino may have had actual possession of the drugs at some point on June 17, the day the warrant was executed, the appellant had effective knowledge and control of them.

Analysis

- [8] At trial, the defence argued that Ms. Bizzarino was a generally unsavoury witness who had a motive to lie and that her evidence was not credible. On appeal, the appellant argues that the trial judge did not appreciate Ms. Bizzarino, who was originally a co-accused, had a clear self-interest in shifting blame to the appellant to exculpate herself. The appellant says that although the trial judge did not have to give herself a *Vetrovec* warning, she was obligated to scrutinize Ms. Bizzarino’s evidence with great care and failed to do so.
- [9] We are unpersuaded.
- [10] As the appellant acknowledged, and as this court has held before, the trial judge was not required to self-instruct with a warning pursuant to *R. v. Vetrovec*, [1982] 1 S.C.R. 811. A *Vetrovec* caution is “designed to educate jurors about the risks inherent in accepting the evidence of certain kinds of witnesses and the need to carefully examine the entire trial record for potential supporting evidence. Trial judges are aware of those risks and the need to look for supporting evidence”: *R. v. Fuller*, 2021 ONCA 888, at para. 19; *R. v. Tubic*, 2024 ONCA 833, at para. 28.
- [11] It is important to remember that much of the evidence at trial was uncontested and that the central issue was Ms. Bizzarino’s credibility and reliability. The appellant argued that Ms. Bizzarino was a prolific liar who was motivated to deflect blame from herself to the

appellant. This was not lost on the trial judge who, in accepting Ms. Bizzarino's evidence, took note of its potential frailties. She held however that Ms. Bizzarino had no continuing motive to lie, as she had already been found guilty of an obstruction charge related to the events in question and had served her sentence before testifying.

- [12] The trial judge also identified evidence that confirmed the credibility and reliability of Ms. Bizzarino's testimony: Surveillance video showed the appellant attending the apartment in the days leading up to the execution of the search warrant, and items of clothing the police found in the spare bedroom matched those that the appellant was wearing in the surveillance video; the cellphone found in the apartment displayed incoming text messages soliciting drugs from "Jimmy"; the Canada Post bag containing fentanyl was found in the location Ms. Bizzarino said she placed it; and the appellant had \$812 in cash at the time of his arrest and more currency was bundled in the same manner in the spare bedroom closet. In fact, the only cash in the apartment was found on the appellant and in the spare room he occupied. This evidence pointed to the appellant's participation in commercial drug trafficking in Ms. Bizzarino's home and lent credence to her testimony that the appellant had possession of the fentanyl when it arrived on the day the warrant was executed.
- [13] In any event, as this court held in *R. v. Ramdeo*, 2025 ONCA 492, at para. 28, a trier of fact is entitled to convict on the evidence of a disreputable witness in the absence of independent confirmatory evidence so long as they are aware of the danger in doing so. The trial judge exceeded this minimum standard. She was satisfied that Ms. Bizzarino was telling the truth, was aware of the risks in accepting Ms. Bizzarino's evidence, and pointed to several pieces of confirmatory evidence. There is no basis to disturb the trial judge's credibility findings.
- [14] The appellant's argument that the trial judge failed to draw an adverse inference against the Crown for not calling Mr. Illson as a witness is an indirect attack upon the trial judge's finding that Ms. Bizzarino was credible, which we have already rejected. Accordingly, we reject this ground of appeal as well.
- [15] Nor are we persuaded that the trial judge committed any of the other errors alleged. First, the trial judge's reasons make it clear that she did not use the appellant's silence to draw an inference of guilt. She relied on the Supreme Court's decision in *R. v. Noble*, [1997] 1 S.C.R. 874, at para. 89, which addresses what use may be made of an accused's silence at trial: Silence may indicate ... that there is no evidence to support speculative explanations of the Crown's evidence offered by defence counsel If, however, there is a rational explanation which is consistent with innocence and which may raise a reasonable doubt, the silence of the accused cannot be used to remove that doubt.
- [16] While the appellant says we cannot know what use the trial judge made of the appellant's decision to not testify, her reliance on *Noble* and explicit reference to the Crown's burden of proof tells us what use she made of it and makes clear that she did not draw an adverse inference against the appellant.

[17] Lastly, the appellant argues that the trial judge failed to consider the reasonable possibility that the fentanyl was meant for someone else, namely “Kurt” who sometimes stayed in the spare bedroom. To this, we note that the primary evidence inculpatory of the appellant was not circumstantial evidence but Ms. Bizzarino’s direct evidence, which the trial judge accepted. Ms. Bizzarino’s uncontradicted evidence was that “Kurt” left the apartment the day before the fentanyl was delivered and that it was the appellant who took physical possession of it upon arrival, placed it in the spare bedroom, and that she and Mr. Illson had approached looking for a share. On these findings, it could not reasonably be inferred that the drugs were meant for “Kurt”.

Conclusion

[18] For these reasons the appeal is dismissed. “K. van Rensburg J.A.” “Thorburn J.A.” “J. George J.A.”

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