

CANADA / JUDGMENT

R. v. Bilusack

2026 ONCA 14

COURT

Court of Appeal for Ontario

DECIDED

14 January 2026

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R. v. Bilusack Collection Decisions of the Court of Appeal Date 2026-01-14 Neutral citation 2026 ONCA 14 Docket numbers COA-25-CR-0225 Judges Lauwers, Peter D.; Sossin, Lorne; Pomerance, Renee M. Subject Criminal Decision Content COURT OF APPEAL FOR ONTARIO CITATION: R. v. Bilusack, 2026 ONCA 14 DATE: 20260114 DOCKET: COA-25-CR-0225 Lauwers, Sossin and Pomerance JJ.A. BETWEEN His Majesty the King Respondent and Royce Bilusack Appellant Royce Bilusack, acting in person Sonya Shikhman, appearing as duty counsel Étienne Lacombe, for the respondent Heard: January 8, 2026 On appeal from the order of Justice James A.S. Wilcox of the Superior Court of Justice, dated December 9, 2024, with reasons reported at 2024 ONSC 6861, dismissing an appeal from the convictions entered on March 30, 2022 by Justice Catherine Mathias of the Ontario Court of Justice. REASONS FOR DECISION

- [1] The appellant was convicted of six of seven offences charged across two informations. He appealed to the Superior Court of Justice. The Crown conceded the appeal on two counts of theft of wood and bricks (Criminal Code, R.S.C. 1985, c. C-46, s. 334(b)) and two counts of mischief related to damage done to Ms. Levesque's fence and patio (s. 430(4)). The summary conviction appeal judge dismissed the appeal with respect to the other counts.
- [2] The appeal to this court is about the appellant's conviction for one count of mischief related to obstructing, interrupting, or interfering with the lawful use, enjoyment or operation of Ms. Levesque's property (s. 430(4)) and one count of failing to comply with the release order and undertaking not to go to 678 Moffat Avenue, North Bay (s. 145(4)(a)).
- [3] On the mischief conviction, the trial judge found that the appellant's conduct caused Ms. Levesque stress to the point where she could no longer be in her backyard or enjoy her property: "There was reference to the cutting and dust flying from various materials that were being sawed down in the yard and the Court would find that there were many instances and examples where Ms. Levesque's enjoyment of her property was obstructed and interfered with by Mr. Bilusack during the period of August 1st, 2019 and August 19th of 2020." This finding overcomes duty counsel's submission that the mischief was too slight to substantiate the charge. Although neither the trial judge nor the summary conviction appeal judge adverted to the element of the appellant's subjective intent to disturb the complainant, the evidence as found amply substantiates that intent.

- [4] On the undertaking conviction, the trial judge did not accept Mr. Bilusack's argument that the portion of the driveway at 678 Moffat Avenue on which he was standing in a photograph was city property, because there was no supporting evidence from "a City planner or official". Although the court reviewed a survey, in the absence of expert evidence, the survey did not assist in identifying the boundaries of city property.
- [5] Perhaps more importantly, the summary conviction appeal judge found that, as a matter of common sense, the scope of the undertaking encompassed the portion of the driveway occupied by the appellant. As he explained:
- [27] The Appellant might well be correct that the road allowance, which is city property, not the homeowner's, does extend somewhat past the part of that allowance that is developed and travelled as a public road, as the trial judge acknowledged. However, I think that that misses the point.
- [28] The Undertaking's wording has been noted above. If the wording is to be read as broadly as the Crown suggests, that would completely negate the Appellant's argument. He was clearly on a place "related to".
- [29] Even if the Undertaking is to be read more narrowly, such that the Appellant was not to go to 678 Moffat Avenue, what does that mean? I would find that such wording was intended and would reasonably be understood to encompass the complainant's home and yards at 678 Moffat, without any reference to surveys or city road allowances. To find otherwise would create an absurd situation in which technicality would triumph over common sense and enforceability. I would take judicial notice that, when property at a municipal address is spoken of in circumstances such as those the Undertaking was made in, the property is thought of as extending to points such as the sidewalk or travelled portion of the road, as the case might be, not just to the limit of the road allowance. On the particular facts of this case, we see no error in this approach. The trial judge's factual findings, as further explained by the summary conviction appeal judge, were not disturbed on appeal and they are binding on this court absent a palpable and overriding error on the trial judge's part. The appellant has identified no such errors. He adamantly disputes the trial judge's findings and wants this court to retry this case. That is not our function.
- [6] Finally, we agree with the summary conviction appeal judge that the appellant's bias claim against the trial judge is not well-founded. The trial judge scrupulously assessed whether she knew the witnesses or the people involved in the dispute because she had lived in the area years earlier. She satisfied herself that she did not know the witnesses. There is nothing in the record to belie her conclusion that she was impartial. The appellant was wise not to push this ground of appeal in his submissions.
- [7] For these reasons, we dismiss the appeal. "P. Lauwers J.A." "L. Sossin J.A." "R. Pomerance J.A."

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