

CANADA / JUDGMENT

R. v. Chen

2025 BCSC 2350

COURT

Supreme Court of British Columbia

DECIDED

21 November 2025

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2025 BCSC 2350 R. v. Chen

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Chen,

2025 BCSC 2350

Date: 20251121

Docket: 38322-1

Registry: Vancouver

Rex

v.

You-Yu Chen

Before: The Honourable Justice Majawa

On appeal from: Provincial Court of British Columbia, August 11, 2025

(R. v. Chen, Vancouver Registry No. AJ29362217-1)

Oral Reasons for Judgment

at Summary Conviction Appeal

Counsel for the Crown:

D. Meagher

The Accused, appearing in person:

Y. Chen

Place and Date of Hearing:

Vancouver, B.C.

November 21, 2025

Place and Date of Judgment:

Vancouver, B.C.

November 21, 2025

INTRODUCTION

- [1] THE COURT: The appellant, You-Yu Chen, was issued a violation ticket for using an electronic device while driving. Mr. Chen sought to dispute that ticket and the dispute was set for trial. However, the trial did not proceed. Instead, Mr. Chen entered a guilty plea and was given a reduced fine.
- [2] The ground of appeal in his notice of appeal is that Mr. Chen felt compelled to plead guilty, did not have the opportunity to seek legal counsel, and did not understand that pleading guilty would result in a conviction remaining on his driving record for five years. As such, Mr. Chen sought to withdraw his guilty plea.
- [3] At the hearing, the ground of appeal changed somewhat in that it became clear that what Mr. Chen did not understand at the time of his guilty plea was that he may face consequences from the rideshare company he worked for as a result of the demerit points associated with the violation ticket.

BACKGROUND FACTS

- [4] On July 21, 2024, Mr. Chen was issued violation ticket AJ29362217 in Vancouver, British Columbia, for the offence of using an electronic device while driving contrary to s. 214.2(1) of the Motor Vehicle Act, R.S.B.C. 1996, c. 318.
- [5] Mr. Chen disputed the violation ticket and a hearing was scheduled for August 11, 2025. Mr. Chen attended court that day. The trial did not proceed because Mr. Chen pleaded guilty to the offence.
- [6] No evidence was called and almost no facts were relayed to the traffic court about the circumstances of the offence. There was no discussion in traffic court about points being assessed to Mr. Chen's licence. Mr. Chen did advise the traffic court that he was a full-time Uber driver and the court reduced his fine to \$250 from the \$368 that was reflected on the ticket. The offence from the violation ticket also carries a penalty of four demerit points.

- [7] At the hearing of this appeal, Mr. Chen handed up an unsworn affidavit which further explained his state of mind at the time he pleaded guilty. Given Mr. Chen's status as a self-represented litigant, the Crown did not oppose entry of this affidavit and I admitted it into evidence.
- [8] The essence of Mr. Chen's unsworn affidavit and his submissions to the court are that he did, in fact, understand that the violation ticket, and in fact that any violation ticket, comes with demerit points. This is not surprising given that, in 2014 or 2015, Mr. Chen was convicted of an offence under the Motor Vehicle Act relating to running a yellow light at an intersection and he received two demerit points.
- [9] Indeed, Mr. Chen told the court that at the provincial court hearing, or prior to the commencement of the provincial court hearing, he had a conversation with the police officer who issued the ticket and asked if the ticket could be issued against the registered owner of the vehicle instead of him as driver, because he understood that tickets issued in that manner did not attract demerit points. The police officer did not accede to that request.
- [10] Mr. Chen was present in the traffic court for the ticketed person that appeared before him, and he says that individual was in a similar circumstance. He was also a rideshare driver and had done essentially the same thing as Mr. Chen was accused of, and he received a reduced fine.
- [11] Sometime after the hearing at traffic court, Mr. Chen says he found out that it is Uber's policy that Uber drivers cannot have a single conviction worth four or more demerit points on their licence and that total demerit points cannot exceed four points.

ISSUES

- [12] The issue in this appeal is whether or not the guilty plea should be withdrawn and the matter remitted back to the traffic court. The determination of this issue turns on whether or not the penalty points and the consequences of those points are legally relevant collateral consequences.

POSITION OF THE PARTIES

Appellant's Position

- [13] Mr. Chen was self-represented at the appeal. As I understand his notice of appeal, his position was essentially as follows: Mr. Chen says that he did not fully appreciate the consequences of pleading guilty to the violation ticket in the sense that he was not fully aware that a conviction would remain on his driving record for five years. He says that because he is a full-time rideshare driver, the impact on his driving record "could" severely affect his ability to drive for Uber or Lyft, which are his only source of income.

- [14] As mentioned earlier, it became clear at the hearing, on the basis of Mr. Chen's submissions to the court and his unsworn affidavit, that he did understand that a conviction came with points. What he did not understand is that Uber's policies with respect to the number of points meant that his ability to work as an Uber driver was in jeopardy as a result of the violation ticket conviction.
- [15] While he did not frame it in the following manner formally, I understand the crux of his position to be that the penalty points and the associated impact on his ability to drive for a ride-share company is a legally relevant consequence, and if he had been fully aware of these consequences, he would not have entered a guilty plea. Thus, he would argue that his conviction is a miscarriage of justice because his guilty plea was invalid.
- [16] In his notice of appeal, Mr. Chen also says that he felt compelled to plead guilty, that he felt like he was under time pressure to do so, and that he did not have an adequate opportunity to consult legal counsel. These grounds of appeal were not pursued in oral argument. Mr. Chen did not lead evidence of pressure by any justice system actors. Based on his submissions, the pressure he felt was due to his own personal circumstances. Similarly, in terms of an adequate opportunity to consult counsel, Mr. Chen did not provide any evidence that he was prevented from seeking legal advice in the 13 months between receiving the ticket and the traffic court trial date. While I appreciate the financial strain he was under and that his focus was on survival, in terms of earning income, that does not form a legal basis or ground of appeal in this manner.
- [17] Mr. Chen also says that the officer who issued the violation ticket misunderstood his actions that day. He says that he only tapped his phone to decline or accept a ride request in the Uber app and he was not texting. Therefore, Mr. Chen says he is not factually guilty of the offence.

Respondent's Position

- [18] The Crown submits the guilty plea was properly informed. It argues that Mr. Chen did not need to be informed of the demerit points before entering the guilty plea, because the collateral consequences of receiving those demerit points are not "legally relevant". The Crown submits that the effect on Mr. Chen's ability to drive for Uber as a result of Uber's policies in respect of demerit points is also not a legally-relevant consequence that could invalidate a guilty plea if an accused was not made aware of it.
- [19] In any event, even if it was, the Crown points out that Mr. Chen's admitted actions that day amount to the offence for which he was convicted.

DISCUSSION

Should the Guilty Plea be Withdrawn and the Matter Remitted back to Traffic Court?

Legal Principles

- [20] The right to appeal from an offence under the Motor Vehicle Act is set out in s. 102 of the Offence Act, R.S.B.C. 1996, c. 338. Section 109 of the Offence Act provides that in an appeal pursuant to s. 102, ss. 683 to 689 of the Criminal Code, R.S.C. 1985 c. C-46 [Code] relating to appeals of indictable offences, except s. 686(5), apply.
- [21] There are three bases upon which an appeal may be allowed under s. 686.1 of the Code and, under that section, a Court of Appeal hearing an appeal against a conviction may allow an appeal where it is of the opinion that the verdict should be set aside on the ground that it is unreasonable or cannot be supported by the evidence, that the judgment of the trial court should be set aside on the grounds of a wrong decision on the question of law, or on any ground that there was a miscarriage of justice.
- [22] In this case, the appellant essentially argues, as I referenced earlier, that his conviction was a miscarriage of justice because his guilty plea was invalid because he was not fully informed of the consequences of pleading guilty when he did so.

Appellate Review of Guilty Plea

- [23] A guilty plea is valid when it is voluntary, unequivocal, and informed. In the context of criminal charges, offences are resolved through guilty pleas and the public has a strong interest in their finality, which is important to ensuring the stability, integrity, and efficiency of the administration of justice: *R. v. Wong*, 2018 SCC 25 at para. 3. I agree with the Crown that, given the high volume of traffic matters that are disputed, these same considerations are present and likely even more pressing in the context of traffic offence prosecutions.
- [24] Where the validity of a guilty plea is raised for the first time on an appeal, as it was here, the appellant bears the onus, on the balance of probabilities, to demonstrate that the guilty plea was invalid: *R. v. Schurman*, 2020 BCSC 961 at para. 8.
- [25] The law regarding appellate review of a guilty plea as directed by the Supreme Court of Canada in *Wong* is comprehensively set out by Justice Forth in *R. v. Zhang*, 2024 BCSC 292 at paras. 33-35.
- [26] To summarize Forth J.'s analysis, a guilty plea may be withdrawn if an accused was unaware of the collateral consequences stemming from that plea because, in those circumstances, holding him to the plea would be a miscarriage of justice. The first step is that the appellant must establish that the guilty plea was uninformed. A guilty plea will be uninformed if the accused was unaware of a collateral consequence that is legally relevant.
- [27] If the appellant is successful in establishing that the collateral consequence of which he was unaware is legally relevant, then the court must move on to consideration of the second factor, which is whether or not the accused has established subjective prejudice.

Are the Consequences of Mr. Chen's Guilty Plea Legally Relevant Collateral Consequences?

- [28] In Zhang at paras. 36-47, Forth J. comprehensively discussed the various decisions regarding whether knowledge of driver penalty points are legally relevant considerations. Given the way in which Mr. Chen's grounds of appeal changed during the course of the hearing, it is not necessary for me to discuss this issue in great detail. It is sufficient to say that Forth J., after considering the caselaw carefully, determined that knowledge of the imposition of driver penalty points were not a legally relevant circumstance in that case, such that the appellant would be permitted to withdraw his guilty plea because he was not aware of the points consequences. I also refer to paras. 48-50 of Zhang.
- [29] As discussed, in the case before me, Mr. Chen has acknowledged that he was aware that a conviction for the violation ticket would attract the assessment of demerit points. What he was not aware of were the potential consequences to his livelihood resulting from Uber's policies in respect of a driver's demerit point record. I was not directed to any caselaw that was directly on point with respect to these circumstances.

Analysis

- [30] While the Zhang case does not discuss the particular circumstances of the case before me, the analysis is nonetheless instructive. In that case, the addition of penalty points was found to be an administrative function in which the court takes no part. The same can be said about Uber's policies with respect to the consequences of demerit points.
- [31] In Zhang, the court concluded that the administrative nature of the demerit point system and the discretionary individualized nature of further consequences from those points meant that it was not incumbent on the court to inquire as to whether the appellant was aware of the consequences before accepting the plea. The same can be said here and the application of this principle is, in my view, even more determinative. The effect of the demerit points on an accused's ability to drive for Uber or any other company is highly individualized. It would be unworkable if the court, the Crown, or the police were required to advise accused people of all of the possible impacts the imposition of demerit points might have on their income-earning ability by means of their employer or contractor's policies, or otherwise.
- [32] Moreover, as the Supreme Court of Canada stated in Wong at para. 9, for a collateral consequence to be legally relevant to an accused person's guilty plea, that consequence will be typically state-imposed. There is good reason for this as neither the court nor the Crown nor the police can be expected to know and advise an accused of every possible individual consequence that could arise from a conviction.
- [33] The Uber policies that Mr. Chen refers to are not state-imposed. Moreover, for the reasons that demerit points themselves are not legally relevant collateral consequences, I find that Uber's policies with respect to the imposition of points are also not legally relevant and cannot form the basis of invalidating a guilty plea.

- [34] Given that I have found the collateral consequences of Uber's policies on Mr. Chen's abilities to drive for the rideshare platform are not a legally relevant consequence that can give rise to the withdrawal of a guilty plea, it is not necessary for me to consider whether Mr. Chen has established subjective prejudice. I will, however, note that on Mr. Chen's own evidence in his sworn affidavit, he has likely admitted to the essential elements of the offence for which he pleaded guilty. Here I reference this court's decision in *R. v. Virda*, 2024 BCSC 2410, where Justice W.A. Baker held that a driver can only touch a screen of a mobile device once while initiating, accepting, or ending a phone call, and that the legislation does not permit the driver to touch the device when using any other function.
- [35] Mr. Chen admits that he tapped the screen only once while using the Uber app to decline rides which, as held in *Virda*, is not permitted under the legislation.
- [36] Before I conclude, I will note two things. For the purposes of this appeal, I have accepted Mr. Chen's evidence that Uber drivers are not permitted to have four or more demerit points from one infraction or in total. However, I note that other than Mr. Chen's unsworn affidavit which attaches no exhibits, I have no evidence of Uber or Lyft's policies with respect to demerit points.
- [37] The second is that in coming to my conclusion, I have heard Mr. Chen's submissions with respect to the financial hardship that his conviction for using a handheld device may have on him and I have some sympathy for him. However, while I appreciate Mr. Chen's submissions with respect to the unfairness of the legislation to people like him who require to use their devices as part of their jobs, I, like every other member of this Court, must apply the law as it is written. This applies equally to the basis for withdrawing a guilty plea as it does to the basis of the violation ticket itself.

Conclusion

- [38] For the reasons given, I find there has been no miscarriage of justice in the circumstances and the appeal is dismissed.

"Majawa J."

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Prepared on 25 October 2026 · Esheria