

CANADA / JUDGMENT

R. v. D.P.R.

2026 ONCA 101

COURT

Court of Appeal for Ontario

DECIDED

10 February 2026

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R. v. D.P.R. Collection Decisions of the Court of Appeal Date 2026-02-10 Neutral citation 2026 ONCA 101 Docket numbers COA-25-CR-1162, COA-25-CR-1519, M56659 Judges Madsen, Lene Subject Criminal Decision Content COURT OF APPEAL FOR ONTARIO CITATION: R. v. D.P.R., 2026 ONCA 101[1] DATE: 20260210 DOCKET: M56659 (COA-25-CR-1162 & COA-25-CR-1519) Madsen J.A. (Motion Judge) BETWEEN His Majesty the King Respondent/Appellant (Moving Party) and D.P.R. Appellant/Respondent (Responding Party) Lorna Bolton, for the moving party Sara Little, for the responding party Heard: in writing REASONS FOR DECISION

- [1] On March 21, 2025, Mr. R. was convicted of one count of sexual assault in relation to his stepdaughter, who was nine or ten years old at the relevant time. Mr. R. was sentenced to a conditional sentence of two years less one day on October 17, 2025, followed by two years' probation. The Crown seeks leave to appeal the sentence (COA 25-CR-1519) and Mr. R. appeals from his conviction (COA-25-CR-1162).
- [2] The Crown now brings a motion to have the sentence appeal bifurcated from Mr. R.'s conviction appeal. Mr. R. resists the bifurcation.
- [3] The Crown seeks leave to appeal the sentence on the basis that it is demonstrably unfit and is seeking Mr. R.'s incarceration. It perfected the appeal on January 6, 2026. The Crown's concern is that if the sentence appeal and conviction appeal are not bifurcated, the sentence appeal will become redundant by the time the appeals are heard. The Crown points to jurisprudence of this court which indicates some reluctance to reincarcerate where the offender has, by the time of the appeal, served a significant portion of their sentence: see e.g. R. v. Fortune, 2024 ONCA 269, at para. 40; R. v. T.J., 2021 ONCA 392, 156 O.R. (3d) 161, at para. 49.
- [4] The Crown recognizes that as a general rule, conviction and sentence appeals are heard together. It notes, however, that this rule is not absolute and appeals may be bifurcated where, as here, there are compelling reasons to do so: R. v. M.W., 2015 ONCA 644, at para. 6.

- [5] The Crown indicates that it is ready to have the sentence appeal listed and heard. It asserts that the arguments to be raised on the sentence appeal are entirely discrete from those in the conviction appeal and could be decided without a review of the entire trial record. Accordingly, there is no risk of conflicting decisions or inefficiencies.
- [6] Mr. R. opposes the bifurcation. He asserts that there are no compelling reasons to deviate from the usual course of having the appeals heard together. He argues that cases where bifurcation has been granted and a sentence appeal heard first have been justified by significant delays in perfecting the conviction appeal, often where an appellant is self-represented, or by delays appearing to be “indeterminate”: *R. v. Kulatheeswaran*, 2025 ONCA 748, at para. 8.
- [7] In contrast to these cases, Mr. R. indicates that he has obtained a Legal Aid Certificate, is represented by counsel on the conviction appeal, and proposes to mitigate any delay occasioned by having the appeals heard together by committing to a perfection date of June 26, 2026. Thus, here, any delay is known, quantifiable, and minimized.
- [8] Further, Mr. R. argues that any concern that he will have served the majority of his conditional sentence by the time the sentence appeal is heard, thus prejudicing the Crown’s position in favour of reincarceration, is overstated since he will only benefit from any reluctance to reincarcerate if it is in the “interests of justice” to give him such benefit: *R. v. Davatgar-Jafarpour*, 2019 ONCA 353, at para. 50.
- [9] I accept the Crown’s submission. While the delay here is not indeterminate, as was the case in *Kulatheeswaran*, it is nevertheless significant in relation to the length of the conditional sentence imposed. Mr. R. has not yet received transcripts for his conviction appeal. The perfection date proposed by Mr. R is June 26, 2026, almost five months away. In the ordinary course the appeal would be scheduled four to six months thereafter. Even projecting conservatively, the proposed hearing date for a combined appeal would land in or around October 2026 when Mr. R. will have served half of his conditional sentence. As in *Kulatheeswaran*, even if the Crown is successful in the sentence appeal “its ability to secure the... carceral sentence it seeks may be reduced considerably”: at para. 9. This is a compelling reason in favour of bifurcation, particularly given that the Crown has advanced the sentence appeal expeditiously.
- [10] I also accept the Crown’s position that the issues raised in the two appeals are discrete. In these circumstances, I am satisfied that this is an appropriate case to bifurcate the sentence appeal from the conviction appeal.
- [11] The Crown’s motion is granted. “L. Madsen J.A.”
- [1] This appeal is subject to a publication ban pursuant to 486.4 of the Criminal Code, R.S.C. 1985, c. C-46.

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Prepared on 25 October 2026 · Esheria