

CANADA / JUDGMENT

R. v. Ethier

2026 ONCA 103

COURT

Court of Appeal for Ontario

DECIDED

13 February 2026

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R. v. Ethier Collection Decisions of the Court of Appeal Date 2026-02-13 Neutral citation 2026 ONCA 103 Docket numbers COA-24-CR-0078 Judges van Rensburg, Katherine; Thorburn, Julie; Gomery, Sally A. Subject Criminal Decision Content COURT OF APPEAL FOR ONTARIO CITATION: R. v. Ethier, 2026 ONCA 103 DATE: 20260213 DOCKET: COA-24-CR-0078 van Rensburg, Thorburn and Gomery JJ.A. BETWEEN His Majesty the King Respondent and Alexandre Ethier Appellant Alexandre Ethier, acting in person Margaret Bojanowska, appearing as duty counsel Étienne Lacombe, for the respondent Heard: February 2, 2026 On appeal from the convictions entered by Justice Pierre Bradley of the Ontario Court of Justice on January 13, 2023 and May 3, 2023, and from the sentence imposed on May 4, 2023. REASONS FOR DECISION

- [1] These reasons address the appellant's appeal from sentence.
- [2] The appellant, Alexandre Ethier, pled guilty to three counts of break and enter, robbery, two counts of uttering threats, five counts of mischief, dangerous driving, two counts of failing to stop after an accident, theft of a motor vehicle, assault causing bodily harm, two counts of breach of a release order, armed robbery, and possession of a weapon.
- [3] The parties presented a joint submission on sentence.
- [4] In accordance with the joint submission, the sentencing judge imposed a sentence of five years' incarceration less 723 days' credit for the 482 days the appellant spent in pretrial custody. The sentencing judge also imposed a lifetime driving prohibition and other ancillary orders.
- [5] The appellant appeals his sentence. While he raised other grounds of appeal in his Notice of Appeal, including in respect of his convictions, at the hearing of the appeal, duty counsel advised, and the appellant confirmed, that he was abandoning all but one ground of appeal: that the lifetime driving prohibition the appellant received for the single count of dangerous driving with no prior dangerous driving or similar offences was excessive. The appellant also advised for the first time on appeal that, once released from custody, he seeks an order to permit him to use a vehicle to get to and from work, as a kind of "carve-out" from the driving prohibition.

- [6] The Crown concedes that the sentencing judge erred by imposing a lifetime driving prohibition in relation to the conviction for dangerous operation set out in s. 320.13(1) of the Criminal Code.
- [7] A lifetime prohibition was not available under the Criminal Code. In this case, the maximum available prohibition for dangerous operation of a motor vehicle, for which the offender is liable for 10 years' imprisonment, is ten years (plus the period of imprisonment), pursuant to ss. 320.19(5)(a) and 320.24(5)(b) of the Criminal Code. It is not clear whether the period of imprisonment in s. 320.24(5)(b) refers to the period of incarceration for the global sentence or only the period of imprisonment for dangerous operation of a motor vehicle.
- [8] Whether a longer driving prohibition is available in this case (i.e., ten years plus the entire period of incarceration for the appellant's global sentence) is an open question which the Crown asks this Court not to resolve. This is the approach this Court adopted in *R. v. Katz*, 2025 ONCA 388, at para. 10, and we agree that it is appropriate given the record available in this appeal.
- [9] The Crown therefore argues that the driving prohibition in relation to the dangerous operation conviction be reduced to ten years and nine months, as nine months was the period of imprisonment imposed for the dangerous driving conviction.
- [10] The appellant asks for a prohibition period less than the ten years and nine months proposed by the Crown on account of personal hardship. The Crown submits that the maximum prohibition should be imposed because of the severity of the driving misconduct and notes that, at the sentencing hearing, the appellant's counsel never took issue with the submission that the driving prohibition should be the maximum allowable in law. We agree. The maximum prohibition requested by the Crown is fit in the circumstances of this case.

CONCLUSION

- [11] For these reasons the sentence appeal is allowed. The sentence imposed is varied in that the driving prohibition is reduced from life to ten years and nine months.
- [12] The Criminal Code does not provide for a 'carve-out' to a driving prohibition for purposes of commuting to and from work, or for any other reason. We are not aware of any common law principle that would allow for such a carve-out, much less one that would apply notwithstanding the "clear, coherent, and self-contained scheme for driving offences" introduced by Parliament in 2018: see *R. v. Wolfe*, 2024 SCC 34, at para. 6. Accordingly, we decline to grant the appellant's request for a carve-out order in this case.
- [13] The conviction appeal is dismissed as abandoned. "K. van Rensburg J.A." "Thorburn J.A." "S. Gomery J.A."

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