

CANADA / JUDGMENT

R. v. Georgopoulos

2026 ONCA 27

COURT

Court of Appeal for Ontario

DECIDED

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COA-24-CR-1077

Judges

Zarnett, Benjamin; George, Jonathon C.; Gomery, Sally A.

Subject

Criminal

Decision Content

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Georgopoulos, 2026 ONCA 27

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Zarnett, George and Gomery JJ.A.

BETWEEN

His Majesty the King

Respondent

and

Jason Georgopoulos

Appellant

Michael Lacy and Marcela Ahumada, for the appellant

Patrick Quilty, for the respondent

Heard: August 18, 2025

On appeal from the sentence imposed by Justice Anne M. Molloy of the Superior Court of Justice on October 29, 2024, with reasons reported at 2024 ONSC 5922.

George J.A.:

- [1] The appellant was convicted of dangerous operation of a motor vehicle causing bodily harm. He was sentenced to two and a half years in the penitentiary and received a six-year driving prohibition. The appellant seeks leave to appeal his sentence. He argues that the sentencing judge 1) erred in analogizing his conduct to the discharging of a firearm, 2) improperly relied on the rejection of his trial evidence as an aggravating sentencing factor, 3) placed undue emphasis on Criminal Code, R.S.C. 1985, c. C-46 amendments that raised the maximum sentence for dangerous driving, 4) failed to consider the sentencing objectives of restraint and rehabilitation, and 5) failed to credit the 41 months he spent subject to a driving prohibition while on bail. If leave is granted, the appellant asks that we allow the appeal, make a conditional sentence order, and reduce the length of his driving prohibition.
- [2] For the reasons that follow, I would grant leave to appeal sentence. I would allow the appeal to the extent of amending the effective date of the driving prohibition, but would dismiss the balance of the appeal.

Background Facts

- [3] On the evening of May 12, 2021, the appellant was driving his recently purchased Lamborghini in Toronto. Stefanie Backer, an employee of the appellant's business, was sitting in the front passenger seat. While driving along Queen Street East, the appellant attempted to pass a streetcar in the curbside lane on the right. As he accelerated, he struck a parked car. The Lamborghini then hit the streetcar, and another car parked curbside before coming to a halt. The speed limit was 40 km/hr. In the seconds before the crash, the appellant accelerated from 52 km/hr. to 112 km/hr. He did not attempt to brake.

- [4] Although the appellant sustained only minor injuries, Ms. Backer, 31 years old at the time, was severely injured. She suffered extensive trauma to her knees, pelvis, back, neck, sternum, wrists, and right shoulder, as well as a dissected carotid artery. Her brain tissue was exposed from the impact of the crash and glass from the shattered windshield was wedged into her brain and chest. While receiving emergency medical care, she experienced a hemorrhagic stroke which led to a surgeon shaving brain tissue from her frontal lobe to control the bleeding. Ms. Backer was placed in an induced coma for 15 days and endured multiple brain seizures. She now lives with a permanent seizure disorder. She has experienced dramatic changes to her personality and is disfigured.
- [5] Ms. Backer had been a paramedic for eight years, in addition to her role as the appellant's administrative assistant. As a result of these injuries, her career as a paramedic has ended. Her driver's license has also been permanently revoked.
- [6] The appellant was 42 years old at the time of the offence. He was a mortgage broker and owned a mortgage brokerage franchise which employed 16 people including Ms. Backer. He was married to his wife for 18 years and has three young children. He does not have a criminal record or relevant driving history.

Reasons for Sentence

- [7] The Crown sought a penitentiary sentence between two and a half and three years, plus a 10-year driving prohibition. The appellant proposed a one-year conditional sentence, or an intermittent 90-day sentence, and a four-year driving ban.
- [8] The sentencing judge considered the appellant's personal circumstances. She referred to letters of support that described him as a "great guy", devoted family man, and someone who is helpful to his friends and co-workers. The sentencing judge acknowledged that the appellant's franchise agreement would be terminated were he incarcerated, as well as his wife's letter which indicated that he is their family's primary financial provider.
- [9] The sentencing judge emphasized the gravity of the offence. She reviewed the legislative history of Criminal Code driving offences, including Bill C-46, An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts, S.C. 2018, c. 21. Bill C-46 came into effect on June 21, 2018, and comprehensively revised the provisions related to these offences under Part VIII.1 ("Offences Relating to Conveyances"). It raised the maximum sentence for dangerous driving causing bodily harm from 10 to 14 years (s. 320.13(2)), and the maximum sentence for dangerous driving causing death from 14 years to life imprisonment (s. 320.13(3)). These increases brought the penalties for dangerous driving in line with the equivalent impaired driving offences. The amendments also added s. 320.12(a), a "Recognition and declaration" which states that "operating a conveyance is a privilege that is subject to certain limits in the interests of public safety that include licensing, the observance of rules and sobriety". In the sentencing judge's view, Parliament "considered dangerous driving to be an offence that should be

treated as equivalent in severity to impaired driving.”

- [10] The sentencing judge underscored the gravity of the appellant’s conduct in this case: “[Ms. Backer] was not injured in a car ‘accident’”, but from the “deliberate criminal conduct of [the appellant]. He is just as criminally responsible as he would be if his weapon was a firearm instead of a car.”
- [11] The sentencing judge accepted that the appellant was remorseful, which she properly treated as a mitigating factor. However, she believed he “lack[ed] true insight into his criminal conduct.” She also rejected counsel’s submission that the trial was “akin to a guilty plea” because, apart from two Charter applications, the appellant did not seriously contest the evidence. According to the sentencing judge, the appellant’s trial testimony was an attempt to “minimize his own culpability.” In the sentencing judge’s view, while the appellant was entitled to make his case, he could not avail himself of the mitigating effect of a guilty plea.
- [12] While the sentencing judge acknowledged the positive letters of support and that the appellant’s family, friends, and co-workers would be “affected by his removal from their lives”, she found there was no evidence of severe hardship warranting a reduction in the length of sentence. She weighed the mitigating factors against the several aggravating factors, including the appellant’s deliberately dangerous conduct, and its life-altering and devastating impact on Ms. Backer.
- [13] The sentencing judge explained further that good character carries less significance when sentencing someone for a driving related offence because “it is often people of otherwise good character who inexplicably choose to drive recklessly”. Referring to *R. v. Lacasse*, 2015 SCC 64, [2015] 3 S.C.R. 1089, at para. 73, she explained that denunciation and general deterrence are the paramount sentencing objectives in cases involving “ordinary law-abiding people”. She reasoned that “[r]ehabilitation is a relevant factor, but does not have a significant role here”. She returned to the firearm analogy to explain why denunciation and deterrence take precedence over restraint and rehabilitation:

Drivers of motor vehicles need to understand that their right to drive is a privilege that carries with it the responsibility to behave in a manner that respects the safety of the public. Many people have gotten that message about drunk driving, but do not recognize that excessive and dangerous speeds and other dangerous conduct that is a threat to public safety will receive the same kind of criminal sanctions. The public understands that young men who shoot guns in public and endanger bystanders can expect to go to jail. The public simply does not have the same attitude about middle-aged, privileged individuals who engage in equally dangerous conduct when driving a motor vehicle. Those perpetrators should also expect to go to jail. There is no reason why one should be treated differently from the other. Indeed, it is easier to understand and show some leniency towards a young person, particularly from an underprivileged community.

- [14] The appellant presented several sentencing decisions in support of his position that parity warranted a conditional or intermittent sentence. The sentencing judge explained that she could not rely on these authorities because “the maximum sentence for dangerous driving causing bodily harm was increased in 2018” and “[c]ases decided prior to that date, or which do not take the increased maximum into account, must be evaluated with care”. The appellant was sentenced to two and half years in jail.
- [15] The sentencing judge imposed a six-year driving prohibition “to commence upon [the appellant’s] release from prison”, adding that “[i]n effect, this is a ban of up to eight and a half years” if considered from the date the sentence is imposed. She declined to give credit for the driving prohibition included in his bail order as “[i]t was not an onerous condition in all the circumstances”.

Analysis

Analogizing the Appellant’s Driving to Discharging a Firearm

- [16] The appellant contends that the sentencing judge committed an error in principle by comparing his driving to “shooting someone with a firearm”. He submits that this analogy exaggerated the gravity of the offence and distorted the proportionality of the sentence. He argues that the analogy was particularly harmful because the sentencing judge suggested that driving offences are typically committed by middle-aged, privileged individuals whereas firearm offences are committed by young men from underprivileged backgrounds. According to the appellant this stereotyped him and prevented the court from giving due weight to his good character.
- [17] In my view, apart from the fact she did not compare driving offences with “shooting someone” with a firearm, the sentencing judge did not err by drawing a comparison between criminal driving offences and the reckless discharge of a firearm. This court has drawn that comparison before, including in *R. v. Ramage*, 2010 ONCA 488, 265 O.A.C. 158, where Doherty J.A. (as he then was) observed, at para. 76, that the “danger created by the appellant’s conduct is not unlike that created by a drunken man who walks down a busy street firing a handgun at random.” Since then, several lower courts have adopted this analogy when imposing sentence in like cases. Given this established judicial approach, it is difficult to fault the sentencing judge for making the same comparison. In any event, setting aside the question of moral culpability, which I will return to in a moment, the risk of harm posed by someone recklessly discharging a firearm in a public space and by driving recklessly on a public roadway is indisputably comparable.
- [18] The weight of the appellant’s submission is that the analogy “skewed the proportionality of the sentence”.

- [19] A sentence is proportionate when the gravity of the offence and the degree of responsibility of the offender are weighed and carefully balanced against each other. The sentencing judge did just that, reasoning that a two and a half year sentence was fit after expressly considering both the gravity of this offence and the degree of the appellant's responsibility. As this court has held, even before the 2018 amendments, dangerous driving is "among the more serious of crimes" which are "all the more egregious when people, often innocent members of the public, are injured": *R. v. Rawn*, 2012 ONCA 487, 294 O.A.C. 261, at para. 41; *R. v. McMertry* (1987), 21 O.A.C. 68 (C.A.), at para. 11. Analogizing this driving conduct with recklessly discharging a firearm did not skew the analysis, and there is otherwise nothing wrong with where the sentencing judge placed the appellant's conduct on the spectrum of seriousness.
- [20] Further, how much weight, if any, to be given to the appellant's good character was within the sentencing judge's discretion. Her comment about who commits like offences simply reflects judicial consensus that sentences for driving offences and other offences, which are often committed by individuals of otherwise good character, need to reflect their true seriousness: *R. v. Lacasse*, at para. 73; *R. v. M.V.*, 2023 ONCA 724, 169 O.R. (3d) 321, at para. 69; *R. v. Currie*, 2018 ONCA 218, at para. 12. The sentencing judge was entitled to weigh evidence of the appellant's good character as she saw fit and there is no basis for appellate intervention: *R. v. Lacasse*, at paras. 48-50; *R. v. Nasogaluak*, 2010 SCC 6, [2010] 1 S.C.R. 206, at para. 46.

Relying on the Rejection of Evidence as an Aggravating Factor on Sentence

- [21] The appellant argues that the sentencing judge erred in principle because she used his not guilty plea and his testimony that the collision was an "accident" to discount his remorse. In the appellant's view, these circumstances should have been considered mitigating factors at sentencing, but instead the sentencing judge treated them as aggravating.
- [22] The sentencing judge did not regard the appellant's trial conduct as an aggravating factor; rather, she found that the appellant was "not entitled to the benefit of the mitigating effect typically given to a guilty plea." Nor did the sentencing judge err in her treatment of the appellant's characterization of the collision as an "accident".
- [23] Defence counsel submitted that although the plea was not "technically" a guilty plea, it should be treated as such because the appellant "did not deny" that "he caused the accident". The sentencing judge was entitled to reject this submission because there were adverse credibility findings made against the appellant at trial and, in her view, the collision was not merely an "accident" but an avoidable event caused solely by the appellant. When the reasons are read as a whole and placed in context, it is clear that when the sentencing judge takes issue with the appellant's reference to the collision as an "accident" she is merely attempting to reinforce the seriousness of his crime. Although the term "accident" is used throughout the Criminal Code, often connoting some level of criminal responsibility, it is apparent that the sentencing judge was concerned by the appellant's recourse to the

terminology of “mistake” or “accident” in an ordinary, everyday sense, which she took as him suggesting the collision was unavoidable or not caused by anyone in particular.

[24] I see no error and would therefore reject this ground of appeal.

Relevance of Criminal Code Amendments

[25] The appellant contends that the sentencing judge erred by relying on the 2018 amendments to the Criminal Code which increased the maximum sentence for dangerous driving causing bodily harm, aligning it with the maximum penalty for impaired driving causing bodily harm, as a “stand-alone basis to depart from previous jurisprudence.” He argues further that the sentencing judge failed to consider the impact of Bill C-5, An Act to amend the Criminal Code and the Controlled Drugs and Substances Act, S.C. 2022, c. 15, which came into effect on November 17, 2022, and made conditional sentences available for dangerous driving and impaired driving. In the appellant’s view this legislative change should have tempered any inclination to increase the range of sentences for dangerous driving causing bodily harm.

[26] I reject this argument. The sentencing judge did not place undue emphasis on the 2018 amendments that raised the maximum sentence for a s. 320.13(2) offence. Rather, she sought to reflect Parliament’s clear intention “to create a stronger approach to punishing driving offences”: *R. v. Boily*, 2022 ONCA 611, 163 O.R. (3d) 161, at para. 51. As the Crown points out, appellate courts in other provinces have reached similar conclusions: *Vaillancourt c. R.*, 2023 QCCA 690, at paras. 27, 47; *R. v. Amyotte*, 2020 MBCA 116, at para. 6. It is difficult to find fault with a sentencing judge for emphasizing a legislative change that Parliament clearly intended to deter dangerous driving by imposing harsher sentences. This is the evident purpose of Bill C-46. And, as the Supreme Court has directed, “[t]o respect Parliament’s decision to increase maximum sentences, courts should generally impose higher sentences than the sentences imposed in cases that preceded the increases in maximum sentences”: *R. v. Friesen*, 2020 SCC 9, [2020] 1 S.C.R. 424, at para. 100.

Conditional Sentence

[27] The appellant argues that the sentencing judge failed to properly apply the principle of restraint, which influenced her decision not to impose a conditional sentence. He submits that the sentencing judge erred in principle by “categorically rejecting the availability of a conditional sentence because denunciation and deterrence [were the] overriding sentencing principles”.

[28] I am unpersuaded. The sentencing judge determined that a fit and proper sentence was one of two and a half years in custody. This made a conditional sentence unavailable. This means that, unless we find the length of the sentence to be demonstrably unfit or the product of an error in principle, there is no basis to consider a conditional sentence. A determination that there is no basis on which to interfere with the two and a half year sentence is a complete answer to this ground of appeal.

- [29] When imposing sentence a judge must, first, determine the appropriate length of the sentence, and to then, and only if it is less than two years, consider the appropriateness of serving that sentence in the community. That is what the sentencing judge did. After considering and balancing the relevant factors she concluded that a penitentiary sentence was required. As such, there was no need for her to consider the appropriateness of a conditional sentence, because it was unavailable.
- [30] Is the two and a half year jail sentence either unfit or the product of an error in principle? It is neither. The appellant frames the sentencing judge's decision to impose a sentence of more than two years as a deliberate choice to avoid a conditional sentence. There is nothing in the sentencing judge's reasons to support this interpretation.
- [31] Further, the appellant's reliance on the concurring reasons in *R. v. R.S.*, 2023 ONCA 608, 168 O.R. (3d) 641 to argue that a sentencing judge cannot exclude a conditional sentence from consideration "based solely on the level of violence committed during the offence, or because denunciation and deterrence are the primary sentencing goals", is misplaced: para. 77. The majority in *R.S.* was clear that a conditional sentence is only available where a sentence of less than two years is imposed: para. 21. As was Paciocco J.A. who, in his concurring reasons, described this as a "prerequisite": para. 68.
- [32] The Crown in *R.S.* appealed on the basis that the conditional sentence did not give due weight to the principles of denunciation and deterrence. The majority agreed but dismissed the appeal for other reasons. In light of the facts and outcome in *R.S.*, and Paciocco JA's analysis at para. 78, it is apparent the comment at para. 77 was intended to guard against any suggestion that a conditional sentence could never be fit for a sexual offence of the kind perpetrated in that case, and not to reorder the approach as the appellant seems to suggest.
- [33] Turning to the appellant's argument about the impact of Bill C-5, I find that its enactment in 2022 did not change the statutory and judicial recognition of the seriousness of dangerous driving offences. In its briefing materials to the Standing Committee on Justice and Human Rights, the Department of Justice clarified that "[t]he proposed reforms in no way detract from the seriousness of the impaired driving offences and do not require a CSO to be imposed" and that crucially "[c]ourts [will] still be required to impose proportionate sentences that respect the jurisprudence in this area."^[1] Furthermore, this court has already rejected the appellant's argument by holding that Bill C-5 "did no more than make conditional sentences available in a wider range of circumstances. It did not have the effect of rendering conditional sentences appropriate or inappropriate in any particular circumstances": *R. v. R.S.*, at para. 24; *R. v. S.W.*, 2024 ONCA 173, 171 O.R. (3d) 269, at para. 33; *R. v. El-Azrak*, 2023 ONCA 440, 167 O.R. (3d) 241, at paras. 115-116.
- [34] Finally, I note that while the appellant submits the sentencing judge should have considered Parliament's enactments holistically by considering the "low end of the range" represented by Bill C-5, defence counsel did not refer to Bill C-5 or make submissions about the impact of Bill C-5 on the appropriate range at the sentencing hearing.

Driving Prohibition

- [35] The appellant was released on bail with a condition that prohibited him from occupying the driver's seat of a motor vehicle. By the time sentence was imposed, the appellant had been prohibited from driving for 41 months, almost three and a half years. The appellant contends that the sentencing judge erred by not deducting this period from the driving prohibition imposed at sentencing pursuant to s. 320.24(4) of the Criminal Code on the basis that it was not "onerous". The appellant submits that this was not a principled basis to depart from the Supreme Court's direction in *R. v. Lacasse*, at para. 113, that "the length of the presentence driving prohibition must be subtracted from the prohibition imposed in the context of the sentence."
- [36] I acknowledge that the time one is subject to a pretrial driving prohibition will usually be deducted from the driving prohibition imposed at sentencing. However, this deduction is not automatic. As the Supreme Court held in *R. v. Basque*, 2023 SCC 18, 482 D.L.R. (4th) 203, at paras. 3, 43, and 61, decided after *R. v. Lacasse*, whether to deduct a pretrial prohibition is a matter of judicial discretion. Credit may, but does not have to, be given for a pre-sentence driving prohibition. I see no basis to disturb the sentencing judge's exercise of discretion in this case.
- [37] Although the sentencing judge did not err in the exercise of her discretion regarding credit for the pre-sentence driving prohibition, she erred in making a six-year ban that "commence[d] upon [the appellant's] release from prison." Section 320.24(5.1) of the Criminal Code directs that "a prohibition order takes effect on the day that it is made." This court also made clear in *Boily*, at paras. 26-28, that a driving prohibition must take effect on the day it is made to avoid any confusion in the event of early release. The sentencing judge had no discretion to depart from this.
- [38] Given this court's direction in *Boily*, and the clear language in s. 320.24(5.1), the six-year driving prohibition, which I see no basis to disturb, must be made effective from the original date of sentence.
- [39] Accordingly, the six-year driving prohibition will be amended to begin on October 29, 2024, the date sentence was imposed. While there is no basis to interfere with the trial judge's discretionary decision to not deduct the time the appellant was on bail, I would note that, for all practical purposes, the appellant will be prohibited from driving for almost nine and a half years when one takes into account the time he was bound by the no-driving bail term. This is considerably less than the net result of the sentencing judge's order which, after taking into account the time spent prohibited from driving on bail (and without considering the likelihood of remission), would have left the appellant unable to drive for almost twelve years. This is a fair and proportionate outcome which also makes clear that sentencing judges cannot make driving prohibitions effective from the date of release from custody.

Conclusion

[40] For these reasons, leave to appeal sentence is granted. The appeal is allowed such that the appellant's six-year driving prohibition will commence on October 29, 2024. The balance of the appeal is dismissed.

Released: January 20, 2026 "B.Z."

"J. George J.A."

"I agree. B. Zarnett J.A."

"I agree. S. Gomery J.A."

[1] House of Commons, Standing Committee on Justice and Human Rights, "Policy Questions and Answers, Bill C-5: An Act to amend the Criminal Code and the Controlled Drugs and Substances Act" (2022), at Q. 29, online: <https://www.justice.gc.ca/eng/trans/bm-mb/other-autre/c5_1/qa-qr.html>. This comment is consistent with Parliamentary statements of the Minister of Justice and other Members of Parliament who made it clear that they expected that serious crimes would be punished seriously while conditional sentences would generally be imposed in less serious cases: House of Commons Debates, 44-1, No. 016 (13 December 2021), at pp. 1079 (Hon. David Lametti), 1095 (Hon. Pam Damoff); House of Commons Debates, 44-1, No. 017 (14 December 2021), at pp. 1115-1116 (Hon. Ken Hardie).

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