

CANADA / JUDGMENT

R. v. Greer

2026 ONCA 222

COURT

Court of Appeal for Ontario

DECIDED

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COA-25-CR-0616

Judges

Tulloch, Michael H.; Coroza, Steve A.; Madsen, Lene

Subject

Criminal

Decision Content

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Greer, 2026 ONCA 222[1]

DATE: 20260330

DOCKET: COA-25-CR-0616

Tulloch C.J.O, Coroza and Madsen JJ.A.

BETWEEN

His Majesty the King

Respondent

and

Kenneth Greer

Appellant

Kenneth Greer, acting in person

Daniel Stein, appearing as duty counsel

Kevin Rawluk, for the respondent

Heard: December 3, 2025

On appeal from the sentence imposed by Justice Dana Peterson of the Ontario Court of Justice on January 23, 2025.

Tulloch C.J.O.:

A. OVERVIEW [1] This appeal concerns the fitness of a five-year penitentiary sentence imposed for offences committed against the appellant's former spouse. Following the end of their relationship, the appellant accumulated repeated convictions over seven years for threatening the complainant, breaking into her home, damaging and stealing her property, and breaching court orders. The present convictions arise from an incident in which, while subject to a probation order and a weapons prohibition order, he attended the complainant's family camp, unlawfully entered it, carved a threatening message into a table, and possessed and concealed a shotgun and ammunition. The trial judge treated this conduct as part of an escalating pattern of intimate partner violence committed in defiance of court orders and imposed a global sentence of five years' imprisonment, with the firearm offences ordered consecutively to emphasize denunciation and deterrence.

[2] The appellant does not challenge his convictions. He submits that the sentence reflects errors in principle and is demonstrably unfit. Through the assistance of duty counsel, he argues that the trial judge overemphasized aggravating factors, improperly relied on the victim impact statement, gave insufficient weight to mitigating factors, and erred in finding that the appellant brought the shotgun onto the complainant's property. Counsel also submits that the offences were wrongly characterized as intimate partner violence and should instead be viewed as a single incident of mischief and firearms violations. On that basis, he contends that the three-year concurrent sentence for criminal harassment was excessive given the absence of prior harassment or assault convictions.

[3] The appeal turns on whether the trial judge properly treated the offences as serious intimate partner violence and whether the five-year sentence falls outside the acceptable range. For the reasons that follow, I would dismiss the appeal.

B. BACKGROUND 1. The Offences [4] The appellant's relationship with the complainant ended in 2016 when she asked him to leave the family home. In 2018, he was convicted of threatening her and breaching release conditions and was ordered to have no contact with or attendance near her. He repeatedly violated those orders. Over the following years, he was convicted and sentenced six more times for threatening the complainant, breaking into her home, stealing and damaging her property, and breaching probation orders and release conditions. In her victim impact statement filed in these proceedings, the complainant described this conduct as a "vicious cycle" that repeatedly revictimized her and left her in constant fear for her safety and that of her children.

- [5] The present offences arose from events on November 15, 2023. At that time, the appellant was subject to a weapons prohibition order under s. 109 of the Criminal Code and a probation order prohibiting him from being within 100 metres of any place where the complainant lived, worked, attended school, frequented, or was known to be.
 - [6] On that date, the appellant was acting as a hunting guide for a friend near a camp owned by the complainant and used by her family as a temporary residence during hunting season. The friend had a shotgun and ammunition in his truck.
 - [7] After learning that the appellant had been seen hunting near her property, the complainant attended the camp with a police escort. Because the access road was too rough for the officer's cruiser, she entered the property alone. She observed the appellant standing in the doorway of the camp and immediately withdrew to speak with the officer. She appeared visibly frightened before returning home. As she drove away, she saw the appellant walking toward her and the police cruiser before veering off the road.
 - [8] Police later arrested the appellant for breaching his probation order. A search of the camp revealed a message carved into the dining room table: "November 15, Grinch was here". The trial judge accepted that "Grinch" was an alias used by the appellant.
 - [9] The following day, the complainant found the shotgun and ammunition on the roadside where she had seen the appellant veer off. Both bore the appellant's DNA.
2. The Reasons for Judgment [10] Following a judge-alone trial, the appellant was convicted of offences arising from the November 15, 2023 incident: breaking and entering a dwelling house with intent to commit mischief, two counts of breach of probation, mischief, criminal harassment, unauthorized possession of a firearm, knowing unauthorized possession of a firearm, possession of a firearm and ammunition contrary to a prohibition order, and careless storage of a firearm and ammunition. The trial judge stayed the mischief, careless storage of ammunition, and unauthorized possession counts pursuant to *Kienapple v. R.*, [1975] 1 S.C.R. 729.
- [11] The trial judge found that the appellant unlawfully entered the complainant's camp and carved the message into the table, supporting convictions for break and enter, mischief, and breach of probation.

- [12] Applying the circumstantial evidence framework in *R. v. Villaroman*, 2016 SCC 33, [2016] 1 S.C.R. 1000, the trial judge concluded that the only reasonable inference was that the appellant had taken his friend's shotgun and ammunition to the camp and concealed them nearby when police arrived. She, therefore, found that he knowingly possessed and carelessly stored the firearm and ammunition without a licence and while subject to a prohibition order.
- [13] The conviction for criminal harassment was informed by evidence of prior discreditable conduct, including the appellant's abusive behaviour, threatening attendances, and communications involving the complainant. In light of that history, the trial judge found the complainant's fear genuine and objectively reasonable and concluded that the carved message demonstrated the intent to harass, describing it as a "very bold message" intended to threaten.
3. The Reasons for Sentence [14] The trial judge imposed a global sentence of five years' imprisonment. Concurrent sentences totalling three years were imposed for break and enter, criminal harassment, and breach of probation. Consecutive sentences totalling two years were imposed for the firearm offences to emphasize denunciation of unlawful firearm possession in the context of intimate partner violence.
- [15] The trial judge identified several aggravating factors: the offences were committed against a former intimate partner; the appellant was subject to both a probation order and a weapons prohibition order; the conduct represented an escalation in seriousness and; the involvement of a firearm heightened the risk inherent in intimate partner violence.
- [16] The trial judge also emphasized the appellant's criminal record, which included 20 convictions over the preceding seven years for offences involving abuse of the same complainant, many involving breaches of court orders. She found the present offences formed part of that pattern and had caused the complainant to reasonably fear for her own and her family's safety.
- [17] The trial judge placed primary weight on denunciation, deterrence, and protection of the public. She found that prior sanctions, including fines and custodial sentences, had failed to deter the appellant. Although she acknowledged his addictions, difficult upbringing, and positive parenting before the separation, she gave these factors little mitigating weight given his lack of insight and remorse.
- C. Standard of review [18] An appellate court may intervene only where the trial judge committed an error in principle that affected the sentence or where the sentence is demonstrably unfit: *R. v. Friesen*, 2020 SCC 9, [2020] 1 S.C.R. 424, at para. 26.
- D. analysis [19] Duty counsel submits that the trial judge erred in principle by treating the offences as intimate partner violence. He characterizes the conduct as a single incident of property mischief and firearms violations. He further argues that the trial judge overemphasized aggravating factors, improperly relied on the complainant's description of the cumulative impact

of prior conduct in her victim impact statement, gave insufficient weight to mitigating factors, and erred in finding that the appellant brought the shotgun into the dwelling house. He also submits that the three-year sentence for criminal harassment was demonstrably unfit given the absence of prior harassment or assault convictions.

[20] I do not accept these submissions. The offences arose in the context of intimate partner violence and represented the culmination of years of escalating misconduct and repeated breaches of court orders. The trial judge was entitled to characterize the conduct accordingly and to prioritize denunciation, deterrence, and protection of the public. She committed no error in principle, and the sentence is not demonstrably unfit.

1. No Error in Principle [21] The trial judge committed no error in principle. She properly characterized the offences as involving intimate partner violence, reasonably emphasized the numerous aggravating factors, and appropriately considered the complainant's evidence of cumulative harm. She was also entitled to assign little weight to the limited mitigating factors and to find that the appellant brought the shotgun onto the property.
 - a. Identification as Intimate Partner Violence and Abuse [22] The trial judge did not err in treating the present and prior offences as intimate partner violence and abuse.

[23] As the Crown submits, intimate partner violence extends beyond physical force. It includes implicit or explicit threats as well as overt violence: *R. v. Finnessey* (2000), 135 O.A.C. 396 (C.A.), at para. 16, leave to appeal refused, [2000] S.C.C.A. No. 565; *R. v. Samery* (2007), 219 C.C.C. (3d) 435 (Ont. S.C.), at paras. 54-56, aff'd 2007 ONCA 643. Similarly, intimate partner abuse under s. 718.2(a)(ii) of the Criminal Code encompasses conduct that harms, exploits vulnerability, or wrongfully asserts power even absent overt violence or threats: *Cook c. R.*, 2009 QCCA 2423, 250 C.C.C. (3d) 248, at para. 76, leave to appeal refused, [2010] S.C.C.A. No. 112; *R. v. Costello*, 2020 CanLII 43695 (N.L. Prov. Ct.), at paras. 31-32; see also *R. v. Lis*, 2020 ONCA 551, 152 O.R. (3d) 125, at para. 57.

[24] The trial judge was entitled to conclude that the present and prior offences formed part of a pattern of intimate partner violence and abuse. The present offences involved threats against the complainant and constituted abuse by emotionally harming her and wrongfully asserting power through the unlawful entry into her dwelling and the carving of a threatening message. The prior convictions for uttering threats likewise constitute intimate partner violence. The remaining offences – including breaches of court orders, break and enter, and property offences directed at the complainant – were properly viewed in context as part of the same pattern of abuse. As the trial judge found, this conduct caused significant emotional and psychological harm and left the complainant fearing for her safety for years.

- b. Emphasis on Aggravating Factors [25] The trial judge properly emphasized the gravity of the offences given their intimate partner violence context. Intimate partner violence is a grave and pervasive social harm whose seriousness “can hardly be overstated”: *R. v. Lavallee*, [1990] 1 S.C.R. 852, at p. 872. Courts have consistently stressed the need for sentences that emphasize denunciation, deterrence, and protection of the public: *R. v. Boucher* (2004), 186 C.C.C. (3d) 479 (Ont. C.A.), at para. 27, citing *R. v. Denkers* (1994), 69 O.A.C. 391 (C.A.).
- [26] Parliament has likewise directed courts to treat abuse of an intimate partner as aggravating and to prioritize denunciation and deterrence while recognizing victims’ heightened vulnerability: Criminal Code, ss. 718.2(a)(ii), 718.201, 718.04. These provisions strengthen the justice system’s response by ensuring that sentences reflect the full gravity of intimate partner violence: *R. v. Bunn*, 2022 MBCA 34, 79 C.R. (7th) 351, at paras. 100, 103.
- [27] These concerns apply equally where the victim is a former partner. Violence against and abuse of a former partner may punish separation, undermine independence, and generate lasting fear and emotional harm, sometimes escalating unpredictably. Sentencing must protect former partners’ ability to live safely and independently after separation: *Boucher*, at para. 27, citing *Denkens*; *R. v. Bates* (2000), 146 C.C.C. (3d) 321 (Ont. C.A.), at paras. 30-38; *R. v. Butcher*, 2020 NSCA 50, 387 C.C.C. (3d) 417, at paras. 147, 178-79, leave to appeal refused, [2020] S.C.C.A. No. 310.
- [28] The trial judge applied these principles. She found that the appellant’s escalating conduct caused the complainant to reasonably fear for her safety and that of her family years after the relationship ended. She, therefore, treated the complainant’s status as a former spouse as aggravating and properly emphasized denunciation, deterrence, and protection of the public.
- [29] The trial judge was also entitled to treat the appellant’s extensive record as highly aggravating. Persistent breaches of court orders undermine the administration of justice and heighten moral culpability. Where such orders protect intimate partners, repeated breaches also threaten victims’ safety and ability to rebuild their lives, reinforcing the need for denunciation and deterrence: *Bates*, at paras. 29, 35-36; *R. v. Louison*, 2008 SKCA 69, 310 Sask. R. 217, at para. 14; *Costello*, at paras. 29-30, 33.
- [30] The trial judge was likewise entitled to treat the firearm aspect as particularly serious. Even absent overt violence, the presence of a firearm in an intimate partner context can heighten risk, intensify fear, and increase volatility. The firearms licensing and prohibition regimes are designed to mitigate those risks: *Reference re Firearms Act*, 1998 ABCA 305, 164 D.L.R. (4th) 513, at paras. 114-15, 169, per Fraser C.J.A., *aff’d* 2000 SCC 31, [2000] 1 S.C.R. 783; *Reference re Firearms Act (Can.)*, 2000 SCC 31, [2000] 1 S.C.R. 783, at para. 20; *Samery*, at para. 48.
- [31] Here, the appellant knowingly possessed a firearm despite being subject to a s. 109 prohibition and lacking a licence. His possession of the firearm in one of the complainant’s dwelling houses, in the context of escalating intimate partner violence, amplified the risk

and the complainant's fear. As the trial judge found, this context heightened the seriousness of the firearms offences and justified a strong denunciatory and deterrent response: *R. v. Itturiligaq*, 2020 NUCA 6, at paras. 59-62, leave to appeal refused, [2020] S.C.C.A. No. 314. The imposition of consecutive sentences appropriately reflected the distinct seriousness of the firearm offences and the need to denounce prohibited firearm possession.

- c. Use of Victim Impact Statement [32] The trial judge properly relied on the victim impact statement. Courts must be attentive to the effects of intimate partner violence and strive to understand the complainant's experience and the full impact of the offences: *R. v. Bérubé* (1999), 215 N.B.R. (2d) 341 (C.A.), at paras. 20-22; *R. v. Berner*, 2013 BCCA 188, 297 C.C.C. (3d) 69, at para. 25; *Cook*, at para. 66.

[33] The trial judge used the statement for that limited purpose. It helped situate the harm caused by the offences within the appellant's broader pattern of misconduct and the complainant's experience of ongoing fear and abuse. At the same time, the trial judge respected procedural limits: she disregarded derogatory comments and did not treat the statement as proof of uncharged conduct.

- d. Treatment of Mitigating Factors [34] The trial judge did not overlook the mitigating factors. She acknowledged the appellant's addictions and background, but was entitled to give them limited weight in light of his entrenched pattern of reoffending.

- e. Firearm Possession Finding [35] The trial judge's finding that the appellant brought the firearm onto the property reflected a proper application of *Villaroman*. In any event, having not appealed his conviction, the appellant cannot challenge that finding in this sentence appeal.

- 2. No Demonstrable Unfitness [36] The sentence is not demonstrably unfit.

[37] Fitness must be assessed having regard to the gravity of the offences and the totality principle.

[38] The offending displayed several serious features: escalating conduct directed at a former intimate partner, repeated disregard for court orders, unlawful entry into property associated with the complainant, deliberate intimidation through vandalism, and the possession and concealment of a firearm while subject to a prohibition order. It occurred against the backdrop of a substantial and recent record for similar conduct.

[39] Intimate partner violence often produces enduring psychological harm. Conduct that might appear isolated in another context may convey a clear threat when viewed against a history of abuse: *R. v. Krushel* (2000), 142 C.C.C. (3d) 1 (Ont. C.A.), at paras. 16-20, leave to appeal refused, [2002] S.C.C.A. No. 93. Here, the complainant's fear was grounded in that history. The carved message and the abandoned firearm were reasonably perceived as acts of intimidation.

- [40] Denunciation, deterrence, and protection of the public assume particular importance where intimate partner violence persists despite prior sanctions. Repeated breaches of probation and weapons prohibitions demonstrate contempt for court authority and disregard for the victim's safety: Bates, at paras. 29, 35-36; Louison, at para. 14; Costello, at paras. 29-30, 33.
- [41] In these circumstances, a penitentiary sentence was inevitable. The five-year global sentence falls within the range for serious intimate partner violence involving firearms and repeated breaches of court orders.
- [42] The three-year sentence for criminal harassment was likewise fit. The offence carries a maximum of ten years, and the range is flexible; substantial penitentiary terms are available in serious cases, including sentences exceeding four years: R. v. Leasak, 2007 ABCA 38, 218 C.C.C. (3d) 212, at paras. 15-17; R. v. O'Connor, 2008 ONCA 206, 234 O.A.C. 135, at para. 20; El Hami c. R., 2015 QCCA 1865, at para. 16. The trial judge properly treated the appellant's prior threats and breaches of protection orders as highly aggravating. Prior convictions for harassment or assault were not required to justify a significant sentence: Finnessey, at paras. 8, 16-19.
- [43] The sentence is not excessive and falls well within the range of reasonable outcomes.

E. CONCLUSION [44] I would grant leave to appeal sentence but dismiss the sentence appeal.

Released: March 30, 2026 "M.T."

"M. Tulloch C.J.O."

"I agree. Coroza J.A."

"I agree. L. Madsen J.A."

- [1] This appeal is subject to a publication ban pursuant to s. 517 of the Criminal Code, R.S.C. 1985, c. C-46.

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