

CANADA / JUDGMENT

R. v. Hamilton

2025 ONCA 887

COURT

Court of Appeal for Ontario

DECIDED

18 December 2025

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R. v. Hamilton Collection Decisions of the Court of Appeal Date 2025-12-18 Neutral citation 2025 ONCA 887 Docket numbers COA-24-CR-0358 Judges Fairburn, J. Michal; Sossin, Lorne; Monahan, Patrick J. Subject Criminal Decision Content COURT OF APPEAL FOR ONTARIO CITATION: R. v. Hamilton, 2025 ONCA 887 DATE: 20251218 DOCKET: COA-24-CR-0358 Fairburn A.C.J.O., Sossin and Monahan JJ.A. BETWEEN His Majesty the King Respondent and Christopher Hamilton Appellant Phillip Millar, for the appellant Patrick Quilty, for the respondent Heard and rendered orally: December 15, 2025 On appeal from the conviction entered by Justice Lynne Leitch of the Superior Court of Justice on December 6, 2023, and from the sentence imposed on April 9, 2024. REASONS FOR DECISION

- [1] This is an appeal from conviction for dangerous driving causing death. The appellant was driving an overweight truck above the speed limit on a residential street where he should not have been. He was unable to bring the truck to a stop at a stop sign, and so swerved into a T-intersection. The truck tipped over, landed on a car and killed the driver.
- [2] The appellant alleges that in this judge-alone trial, the trial judge misapprehended the evidence and failed to distinguish between the test for civil and criminal negligence. As for the latter, respectfully, we see no merit to this submission. The trial judge started her reasons with a correct self-instruction as to the test for criminal negligence, specifically, that she could only find the appellant guilty if his driving amounted to a marked departure in the standard of care expected of a reasonably prudent driver. She repeated that test on multiple occasions. We see nothing in the reasons to suggest she misunderstood the correct legal test.
- [3] The appellant also suggests that the trial judge's reasons reflect multiple misapprehensions of evidence. He emphasizes, in particular, that the trial judge misapprehended the record when she found no evidence that the brakes had malfunctioned.
- [4] In our view, based on the record before her, including the expert evidence, it was open for the trial judge to conclude as she did, specifically, at p. 38 of the reasons: I conclude that there was more than enough air pressure available on the truck to stop the vehicle. There was no mechanical problem with the truck, and there was no brake problem.

- [5] This was an inference available to the trial judge. We see no error in how she reached that conclusion.
- [6] In our view, and respectfully, all of the alleged misapprehensions of evidence constitute a request that this court re-hear the case. That is not the function of this court.
- [7] The appellant also appeals from the four-year sentence imposed on the basis that the sentence is demonstrably unfit. We disagree. Sarah Jones lost her life. There were two statutory aggravating factors at work in this case: s. 320.22(d) and (f) of the Criminal Code, R.S.C., 1985, c. C-46. We owe deference to the trial judge and the sentence that she arrived at.
- [8] The only difficulty in the trial judge's reasons on sentence is that she made an error in how she described the driving prohibition. She said it would run for two years "plus the entire period to which the offender is sentenced to imprisonment," which the parties agree does not precisely track the wording in the Criminal Code. It was clearly the intention of the trial judge to impose a six-year driving prohibition to begin on the date of this sentence.
- [9] Therefore, we would dismiss the conviction appeal and dismiss the sentence appeal, with the exception of changing the wording of the driving prohibition to vary it to a six-year prohibition, backdated to the date the appellant was originally sentenced, April 9, 2024. "Fairburn A.C.J.O." "L. Sossin J.A." "P.J. Monahan J.A."

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