

CANADA / JUDGMENT

R. v. McFarlane

2026 ONCA 182

COURT

Court of Appeal for Ontario

DECIDED

11 March 2026

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R. v. McFarlane Collection Decisions of the Court of Appeal Date 2026-03-11 Neutral citation 2026 ONCA 182 Docket numbers COA-25-CR-1511 Judges Roberts, Lois B.; Thorburn, Julie; Favreau, Lise G. Subject Criminal Decision Content COURT OF APPEAL FOR ONTARIO CITATION: R. v. McFarlane, 2026 ONCA 182 DATE: 20260311 DOCKET: COA-25-CR-1511 Roberts, Thorburn and Favreau JJ.A. BETWEEN His Majesty the King Respondent and Odean McFarlane Appellant Paul Calarco, for the appellant Eunwoo Lee, for the respondent Heard and rendered orally: March 9, 2026 On appeal from the sentence imposed by Justice Sarah Tarcza of the Ontario Court of Justice, on April 8, 2025. REASONS FOR DECISION

- [1] On November 18, 2024, following his guilty plea, the appellant was convicted of an unprovoked aggravated assault against a fellow NCR resident. As a result of the aggravated assault, the complainant suffered severe life-threatening injuries and continues to sustain permanent serious brain damage. On April 8, 2025, the appellant received a four-year sentence, less credit for presentence custody, leaving a net sentence of 674 days.
- [2] The appellant appeals his sentence. He does not challenge the four-to-six-year sentencing range identified by the sentencing judge, nor that a four-year sentence was fit, but for the appellant's mental health issues. He argues that the sentencing judge erred in failing to reduce his sentence further to reflect the harshness of the presentence custody circumstances he experienced, including a physical altercation with guards, given his mental illness. He says that giving only "some" consideration to these factors was insufficient and an error in principle.
- [3] We are not persuaded that the sentencing judge made any reversible error. She expressly considered and gave sentencing credit for the difficulties the appellant experienced in custody, particularly because of his mental illness. As she stated: "I accept that Mr. McFarlane suffers from mental illness, and I have no difficulty finding that his particular pre-trial custody experiences would have an even more profoundly harsh [e]ffect on him as a result."

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- [4] As a result of these and other mitigating factors that she took into consideration, the sentencing judge imposed a sentence at the lower end of the appropriate range for this very severe aggravated assault.
- [5] In our view, the appeal submissions quarrel with the weight that the sentencing judge gave to the effect that presentence custody had on the appellant because of his mental health issues. The appropriate weight was up to the sentencing judge to determine.
- [6] We see no basis to interfere. Leave to appeal sentence is granted, but the appeal from sentence is dismissed. “L.B. Roberts J.A.” “Thorburn J.A.” “L. Favreau J.A.”
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