

CANADA / JUDGMENT

R. v. Raybe

2025 ONCA 889

COURT

Court of Appeal for Ontario

DECIDED

23 December 2025

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R. v. Raybe Collection Decisions of the Court of Appeal Date 2025-12-23 Neutral citation 2025 ONCA 889 Docket numbers COA-25-CR-0354 Judges Thorburn, Julie; George, Jonathon C.; Gomery, Sally A. Subject Criminal Decision Content COURT OF APPEAL FOR ONTARIO CITATION: R. v. Raybe, 2025 ONCA 889 DATE: 20251223 DOCKET: COA-25-CR-0354 Thorburn, George and Gomery JJ.A. BETWEEN His Majesty the King Respondent and Alexander Raybe Appellant Richard Litkowski, for the appellant Nicholas Hay, for the respondent Heard: December 16, 2025 On appeal from the sentence imposed by Justice Robert F. Goldstein of the Superior Court of Justice, on July 30, 2024. REASONS FOR DECISION OVERVIEW

- [1] On the day set for his trial, the appellant pled guilty to two counts of possession of a loaded prohibited firearm contrary to s. 95(1) of the Criminal Code, R.S.C. 1985, c. c-46. The counts relate to two separate incidents in 2021.
- [2] A global sentence of 7 years was imposed, along with ancillary orders. No credit was granted for time spent in pre-sentence custody.
- [3] The appellant seeks leave to appeal his sentence. If leave is granted, he asks this court to reduce his sentence from 7 to 5 years (which becomes 4 years if a one-year Downes credit is given). He advances three grounds of appeal:
 - (i) the sentencing judge underemphasized his youth, his potential for rehabilitation, his remorse as demonstrated by his guilty pleas and letter of apology, the systemic racism he has suffered, and that he is a racialized first-time offender; (ii) the sentencing judge failed to apply the principle of restraint; and (iii) the sentencing judge failed to give the appellant Downes credit for the strict bail conditions to which he was subject while awaiting trial.
- [4] At trial, the appellant admitted that, in August 2021, he fired two gunshots in a residential neighbourhood after a confrontation with another man in a carwash. In November 2021, after shots were fired at his vehicle, he exchanged gunfire from a moving vehicle with a person in the other vehicle. The appellant was sentenced to 7 years in prison, consisting of 3.5 years for each offence, less pre-sentence custody.

- [5] At the sentencing hearing, both the Crown and Defence acknowledged the principles of totality. They also agreed that there were mitigating factors including Mr. Raybe's young age, that this was his first offence, that he has suffered systemic anti-Black racism, and that he pleaded guilty.
- [6] The sentencing judge acknowledged "the need for restraint where a young, racialized first offender is before the court." He accepted that the appellant had experienced systemic racism. He gave weight to the appellant's potential for rehabilitation.
- [7] He found, however, that there were concerns about whether the appellant was truly remorseful, based on music videos made by the appellant (one of which was made after the appellant pled guilty) that portrayed the appellant "holding guns, pantomiming the holding of guns, and making reference to the use of guns" and the pre-sentence report.
- [8] The sentencing judge nonetheless imposed a sentence on the low end of the range for the offences at issue, based on the mitigating factors. As he explained: A court must avoid imposing a sentence that is so crushing as to destroy any hope of rehabilitation. Consecutive sentences in the range of 7 or 8 years would not be out of the range of sentence for these offenses and would be proportionate to the gravity of the offences. When applied to a young first offender – Mr. Raybe was 18 and, as he put it, young and dumb – such a sentence would offend the totality principle. Accordingly, I find that a global sentence of 7 years is fit. This sentence is at the low end of the range under the circumstances, but reflects the mitigation of the guilty plea, the principles of rehabilitation, restraint, and totality, and still is severe enough to reflect the principles of denunciation and deterrence.
- [9] The appellant was not sentenced for offences to which he did not plead guilty. The appellant's discharge of a firearm on the two separate occasions that he was in possession of a loaded firearm, were rightly treated as aggravating factors.
- [10] We are not persuaded that the sentencing judge committed any error that would justify setting aside the sentence. His reasons disclose no error in principle, and it is not for this court to reweigh mitigating and aggravating factors. His decision is entitled to deference. Moreover, there is no question that, in the circumstances of this case, the overall sentence imposed is fit. Had the appellant been convicted of two counts of discharging a weapon, the appropriate sentencing range would have been higher.
- [11] The sentencing judge declined to grant the appellant any Downes credit, as at the sentencing hearing, the appellant's counsel acknowledged that, "I know he breached that [his bail conditions], there is no justification for that". This led to revocation of his bail followed by re-release on stricter conditions.
- [12] This was a reasonable basis for the exercise of the sentencing judge's discretion.
- [13] Leave to appeal the sentence is therefore granted, but the appeal of sentence is dismissed. "Thorburn J.A." "J. George J.A" "S. Gomery J.A"

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