CANADA / JUDGMENT

R. v. S.L.

2026 ONCA 342

COURT
Court of Appeal for Ontario

DECIDED
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R. v. S.L. Collection Decisions of the Court of Appeal Date 2026-05-13 Neutral citation 2026 ONCA 342 Docket numbers COA-24-CR-0340 Judges Rouleau, Paul S.; Wilson, Darla A.; Madsen, Lene Subject Criminal Decision Content COURT OF APPEAL FOR ONTARIO CITATION: R. v. S.L., 2026 ONCA 342[1] DATE: 20260513 DOCKET: COA-24-CR-0340 Rouleau, Wilson and Madsen JJ.A. BETWEEN His Majesty the King Respondent and S.L. Appellant Geoff Haskell, for the appellant Katherine Beaudoin, for the respondent Heard: April 30, 2026 On appeal from the convictions entered by Justice Andrew Pinto of the Superior Court of Justice, sitting with a jury, on October 27, 2023. REASONS FOR DECISION

[1] Following a jury trial, the appellant was convicted of human trafficking (s. 279.01(1) of the Criminal Code, R.S.C., 1985, c. C-46 (the "Code")); receiving a material benefit knowing that it was derived from sexual services (s. 286.2(1) of the Code); receiving a material benefit knowing it was derived from trafficking (279.02(1) of the Code); assault (s. 266 of the Code), and trafficking in cocaine (s. 5(1) of the Controlled Drugs and Substances Act, S.C. 1996, c. 19). He was acquitted of advertising sexual services for consideration (s. 286.4 of the Code) and uttering a threat to cause death (s. 264.1(1)(a) of the Code). He appeals from his convictions.

[2] The appellant and complainant were spouses. The complainant testified that, through a gradual process, the appellant convinced her to start providing sex for money. She said that the appellant controlled the money she was paid, encouraged her to take on more customers, and encouraged her to consume cocaine and alcohol, resulting in addiction. She testified she told the appellant she did not want to perform sex work and felt unsafe but was forced to continue to participate.

[3] The appellant ended the relationship in 2019. About a month later, the complainant contacted the police and alleged that the appellant had assaulted her. In September 2020, the complainant made a second police statement, which resulted in most of the charges against the appellant now under appeal.

[4] The appellant makes three submissions on appeal: A. The trial judge erred in granting the Crown's application to tender prior discreditable conduct evidence; B. The trial was procedurally unfair because the trial judge shared defence counsel's closing position with the Crown before oral submissions; and C. The trial judge wrongly instructed the jury to disregard parts of defence counsel's closing submissions on the basis of a breach of Browne v. Dunn (1893), 6 R. 67 (U.K. H.L.).

[5] We do not accept these submissions. A. The PRIOR discreditable conduct application [6] At the outset of the trial, the Crown brought a prior discreditable conduct application. The Crown sought to adduce evidence, through the complainant, about the appellant's statements to her about his membership in "Block 13", a neighbourhood Toronto gang, his criminal record and that he had been to jail. The Crown also sought to introduce the complainant's statements to the police that the appellant told her that if she told the police about his involvement in her sex work he would "kill [her] and [her] two girls" and that he was "never going back to jail".

[7] The Crown's position on the application was that the evidence was presumptively admissible because it formed the substance of the uttering threat charge; was relevant to the human trafficking charge, specifically the appellant's intention to exploit the complainant; and helped explain the differences between the complainant's two statements to the police. The Crown further argued that if the evidence was prior discreditable conduct evidence, the evidence should be admitted because its probative value far outweighed its prejudicial effect.

[8] Defence counsel took the position that the evidence was prior discreditable conduct and therefore presumptively inadmissible. Defence counsel argued that the prejudicial effect of any reference to the appellant's criminal record or time spent in custody outweighed any of the evidence's probative value and was therefore inadmissible. Defence counsel did not oppose reference to the threats made to the complainant or the appellant's statements about his prior gang membership.

[9] The trial judge concluded that the proposed evidence was relevant to the death threats charge and the human trafficking charge and was "quite strongly tied to the complainant's belief and conduct." He concluded that the probative value of the evidence outweighed its prejudicial effect and he admitted it.

[10] On appeal, the appellant submits that the judge erred in admitting what he describes as "highly prejudicial" general propensity evidence, in clear breach of the proscription against such evidence as set out in R. v. Handy, 2002 SCC 56, [2002] 2 S.C.R. 908, at para. 36. As general propensity evidence, he says, it was simply not admissible. Any probative value was entirely based on the impermissible chain of reasoning that the appellant was more likely to be guilty of the charges against him because he had a criminal history and was therefore a bad person. Further, the appellant submits that the trial judge failed to assess the proposed evidence in any meaningful way and that he did not properly turn his mind to its prejudicial

effects.

[11] We would not interfere with the trial judge's admissibility ruling, which is entitled to significant deference: R. v. Riley, 2017 ONCA 650, 137 O.R. (3d) 1, at para. 157, leave to appeal refused, [2018] S.C.C.A. No. 216; R. v. Chizanga, 2024 ONCA 545, 172 O.R. (3d) 241, at para. 12, aff'd 2025 SCC 9, 501 D.L.R. (4th) 1, at para. 32. The trial judge determined that the evidence was relevant to both the uttering threats charge and the trafficking charge and constituted an important part of understanding the degree of control allegedly exercised by the appellant over the complainant, as well as to the incomplete nature of the complainant's first police statement. Accordingly, the evidence was not, as the appellant alleged, general propensity evidence with "no relation to what was going on" in the trial.

[12] The trial judge was in the best position to consider the relevance of the evidence to the live issues in the case and weigh its probative value against its prejudicial effects. His analysis was neither unreasonable, nor undermined by legal error or misapprehension of material evidence: Chizanga, at para. 12.

[13] Further, the trial judge gave a detailed and appropriate instruction to the jury limiting the use the jury could make of the appellant's statements about his prior time in custody, to the human trafficking charge, and to uttering a death threat. That limiting instruction, which the appellant acknowledges on appeal was an appropriate caution, was the product of joint direction and recommendations from counsel. The trial judge clearly told the jury not to speculate about whether the appellant had been to jail in the past, that it "has nothing to do with any issue in this case", and that they should not reason from this that he may be the type of person who would commit criminal offences. The jury could not have been confused on this point.

[14] Despite multiple opportunities to do so, defence counsel did not request a limiting instruction about apparent prior involvement in "Block 13". B. Alleged procedural error [15] The appellant alleges that "significant procedural unfairness" was created at the end of the trial, when the trial judge shared defence counsel's summary of his position to be included in the charge with the Crown prior to closing submissions. Specifically, the trial judge requested that counsel provide him with a summary of their position to be included in the charge by email. The trial judge then emailed the draft jury charge, containing those summaries to counsel. Two days later, the Crown and defence counsel delivered their closing submissions. The appellant says that this premature sharing of defence counsel's summary of his position was contrary to the spirit of s. 651(3) of the Code and caused procedural unfairness, even if inadvertent.

[16] Sharing defence counsel's summary before closing submissions was an oversight, and not more. Defence counsel did not suggest the Crown had done anything improper or that a particular remedy was required. Nor, on appeal, does the appellant particularize, how, if at all, he was prejudiced. This oversight was not so severe as to render the trial unfair or create an appearance of unfairness: R. v. Khan, 2001 SCC 86, [2001] 3 S.C.R. 823, at paras. 69-70. C.

Corrections to the defence closing Submissions [17] Finally, the appellant submits that the trial judge erred in instructing the jury to disregard portions of the defence closing submissions due to breaches of the rule in Browne v. Dunn. We do not accept this submission.

[18] During closing submissions, defence counsel raised what he alleged were discrepancies in some of the documentary evidence tendered by the Crown through the complainant, including certain hotel accommodation bookings at the Park Motel, which allegedly post-dated when the appellant and the complainant last saw each other. Defence counsel theorized that the complainant had either manufactured evidence or had tendered evidence not relevant to the indictment period. Defence counsel told the jury, “I’m going to suggest she was lying to us this entire time.” And further, “[s]he is caught I’m going to suggest, with this June 13, 2019 thing, her perjury, her repeated lies you cannot believe anything [the complainant] says or provides as evidence.”

[19] We accept the appellant’s submission that not every piece of contradictory evidence must be “slogged through” during cross examination and that direct confrontation on an issue may be unnecessary where it is apparent that the cross examiner does not accept the witness’ statements: R. v. Quansah, 2015 ONCA 237, 125 O.R. (3d) 81, at para. 81, leave to appeal refused, [2016] S.C.C.A. No. 203. However, as this court recently stated, “the rule requires the cross-examiner to confront the witness on matters of true substance upon which the cross examiner intends to impeach the witness’s credibility, so that the witness is afforded an opportunity to explain”: R. v. McDonald, 2025 ONCA 807, 179 O.R. (3d) 721, at para. 57. This is a core rule of trial fairness.

[20] The apparent discrepancy was not put to the complainant in cross examination. She was given no opportunity to explain. It is also clear on its face that the evidence was a matter of “true substance”. Indeed, defence counsel drew a straight line from this issue to characterizing the complainant as a liar, who could not be believed.

[21] A trial judge’s determination of whether there has been a breach of the rule in Browne v. Dunn and any potential remedy are entitled to deference: McDonald, at para. 61; Quansah, at para. 101. The trial judge discussed his recollection of the testimony with counsel, heard their arguments on the issue, and consulted the record of the complainant's testimony. After discussions with counsel about wording, he delivered a correcting instruction. The trial judge was well placed to determine if a correcting instruction was needed and the content thereof. We would not interfere with this discretionary remedial action.

Disposition

[22] The appeal is dismissed. “Paul Rouleau J.A.” “D.A. Wilson J.A.” “L. Madsen J.A.”

[1] This appeal is subject to a publication ban pursuant to s. 486.4 of the Criminal Code, R.S.C., 1985, c. C-46.

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