

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Madden, 2012 ONCA 247

DATE: 20120418

DOCKET: C55162

Rosenberg, Gillese and Hoy JJ.A.

BETWEEN

Her Majesty The Queen

Respondent

and

Michael Madden

Appellant

Richard Litkowski, for the appellant

J. Sandy Tse, for the respondent

Heard and endorsed: April 17, 2012

On appeal from sentence imposed by Justice Joe De Filippis of the Ontario Court of Justice, dated November 24, 2011.

APPEAL BOOK ENDORSEMENT

[1] In our view, the trial judge did not err in principle in rejecting the joint submission. It was open to the trial judge to find that the proposed sentence was contrary to the administration of justice. The appellant was serving an intermittent sentence with respect to an offence involving this same victim when he committed this offence. As the trial judge observed, specific deterrence was an overwhelming consideration and would not have been achieved by the joint

submission. Saving the victim from having to testify was an important consideration but it could not justify the sentence that was proposed in this case.

[2] While leave to appeal sentence is granted, the appeal is dismissed.