

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Pitamber, 2018 ONCA 518

DATE: 20180606

DOCKET: C64947

Lauwers, Pardu and Huscroft JJ.A.

BETWEEN

Her Majesty the Queen

Respondent

and

Pasram Pitamber

Appellant

Gerald Chan, duty counsel

Leslie Paine, for the respondent

Heard and released orally: June 4, 2018

On appeal from the sentence imposed on December 21, 2017 by Justice J.E. Allen of the Ontario Court of Justice, sitting without a jury.

REASONS FOR DECISION

[1] The sentencing judge refused to give the appellant credit for pre-sentence custody on any more than a one-for-one basis as the appellant had breached the no contact provisions of previous orders on many occasions. The sentencing judge

did not have the benefit of *R. v. Plante*, 2018 ONCA 251, as well as the fresh evidence indicating that the accused has behaved well during his time in custody.

[2] There is no reason to believe that the accused will not be entitled to release after serving two thirds of his sentence in a provincial institution. Parity of treatment in these circumstances between persons released on bail and those detained in custody mandates a further credit on a 1.5:1 basis of 43 days. The sentence was otherwise fit.

[3] The appeal is allowed only to the extent of reducing the sentence by a further of 43 days. The appeal is otherwise dismissed.

“P. Lauwers J.A.”

“G. Pardu J.A.”

“Grant Huscroft J.A.”