

## WARNING

The President of the panel hearing this appeal directs that the following should be attached to the file:

An order restricting publication in this proceeding under ss. 486.4(1), (2), (2.1), (2.2), (3) or (4) or 486.6(1) or (2) of the *Criminal Code* shall continue. These sections of *the Criminal Code* provide:

486.4(1) Subject to subsection (2), the presiding judge or justice may make an order directing that any information that could identify the victim or a witness shall not be published in any document or broadcast or transmitted in any way, in proceedings in respect of

(a) any of the following offences;

(i) an offence under section 151, 152, 153, 153.1, 155, 159, 160, 162, 163.1, 170, 171, 171.1, 172, 172.1, 172.2, 173, 210, 211, 213, 271, 272, 273, 279.01, 279.011, 279.02, 279.03, 280, 281, 286.1, 286.2, 286.3, 346 or 347, or

(ii) any offence under this Act, as it read at any time before the day on which this subparagraph comes into force, if the conduct alleged involves a violation of the complainant's sexual integrity and that conduct would be an offence referred to in subparagraph (i) if it occurred on or after that day; or

(iii) REPEALED: S.C. 2014, c. 25, s. 22(2), effective December 6, 2014 (Act, s. 49).

(b) two or more offences being dealt with in the same proceeding, at least one of which is an offence referred to in paragraph (a).

(2) In proceedings in respect of the offences referred to in paragraph (1)(a) or (b), the presiding judge or justice shall

(a) at the first reasonable opportunity, inform any witness under the age of eighteen years and the victim of the right to make an application for the order; and

(b) on application made by the victim, the prosecutor or any such witness, make the order.

(2.1) Subject to subsection (2.2), in proceedings in respect of an offence other than an offence referred to in subsection (1), if the victim is under the age of 18 years, the presiding judge or justice may make an order directing that any information that could identify the victim shall not be published in any document or broadcast or transmitted in any way.

(2.2) In proceedings in respect of an offence other than an offence referred to in subsection (1), if the victim is under the age of 18 years, the presiding judge or justice shall

(a) as soon as feasible, inform the victim of their right to make an application for the order; and

(b) on application of the victim or the prosecutor, make the order.

(3) In proceedings in respect of an offence under section 163.1, a judge or justice shall make an order directing that any information that could identify a witness who is under the age of eighteen years, or any person who is the subject of a representation, written material or a recording that constitutes child pornography within the meaning of that section, shall not be published in any document or broadcast or transmitted in any way.

(4) An order made under this section does not apply in respect of the disclosure of information in the course of the administration of justice when it is not the purpose of the disclosure to make the information known in the community. 2005, c. 32, s. 15; 2005, c. 43, s. 8(3)(b); 2010, c. 3, s. 5; 2012, c. 1, s. 29; 2014, c. 25, ss. 22, 48; 2015, c. 13, s. 18..

486.6(1) Every person who fails to comply with an order made under subsection 486.4(1), (2) or (3) or 486.5(1) or (2) is guilty of an offence punishable on summary conviction.

(2) For greater certainty, an order referred to in subsection (1) applies to prohibit, in relation to proceedings taken against any person who fails to comply with the order, the publication in any document or the broadcasting or transmission in any way of information that could identify a victim, witness or justice system participant whose identity is protected by the order. 2005, c. 32, s. 15.

# COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Korecki, 2020 ONCA 157

DATE: 20200227

DOCKET: C63743

Watt, Pardu and Roberts JJ.A.

BETWEEN

Her Majesty the Queen

Respondent

and

Richard Korecki

Appellant

Breana Vandebeek, for the appellant

Alexander Hrybinsky, for the respondent

Heard and released orally: February 24, 2020

On appeal from the convictions entered on July 25, 2014 and the sentence imposed on June 2, 2016 by Justice Maureen D. Forestell of the Superior Court of Justice, sitting with a jury.

## REASONS FOR DECISION

[1] The appellant was convicted after a jury trial in the Superior Court of Justice of 14 personal injury offences against his former domestic partner. After the trial had concluded, the appellant was found to be a dangerous offender and sentenced to an indeterminate term of imprisonment.

[2] The appellant appeals his convictions of the predicate offences advancing a single ground of appeal. He says that the trial judge erred in admitting, as evidence of similar acts, evidence of two incidents involving a former domestic partner which had resulted in convictions.

[3] It is well known that the admissibility of evidence of similar acts is determined by balancing the probative value of the evidence, on the one hand, against its prejudicial effect, on the other. It is equally familiar that, absent an error of law or of principle or an unreasonable conclusion, appellate courts afford substantial deference to the conclusions of trial judges on these admissibility issues.

[4] In this case, the trial judge articulated and applied the governing test. Her reasons for admitting some of the evidence of similar acts proffered by the Crown, but excluding others, reveals no error of law or of principle. Nor can her conclusion be characterized as unreasonable.

[5] The appeal from conviction is dismissed. The appeal from sentence was not pursued and is dismissed as abandoned.

“David Watt J.A.”

“G. Pardu J.A.”

“L.B. Roberts J.A.”