

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Thibeault, 2024 ONCA 475

DATE: 20240618

DOCKET: C68018

van Rensburg, Harvison Young and Sossin JJ.A.

BETWEEN

His Majesty the King

Respondent

and

Jean-Guy Thibeault

Appellant

Jean-Guy Thibeault, acting in person

Nicholas Hay, for the respondent

Heard: June 4, 2024

On appeal from the convictions entered on June 6, 2018 by Justice Ian A. MacDonnell of the Superior Court of Justice, sitting with a jury, and the sentence imposed on July 13, 2018.

REASONS FOR DECISION

[1] The appellant appeals his conviction for manslaughter and aggravated assault. His sentence appeal is moot as the sentence has been served.

[2] Having reviewed the materials on this appeal submitted by the appellant and the Crown, and having heard their submissions, we conclude that there is no merit to the sole ground of appeal, which is ineffective assistance of counsel (“IAC”).

[3] This claim is not supported by the factual record and does not meet the test for IAC summarized in *R. v. MacLeod*, 2020 ONCA 596, at para. 15. In particular, the appellant’s main concern, which is that his trial counsel ought to have put forward certain video evidence to suggest that he was not the offender, is without merit. We accept trial counsel’s assertion that the video would not have assisted the appellant in his defence, and in any event the appellant’s identity as the person who attacked the manslaughter victim was established based on a number of compelling factors, including the appellant’s DNA, footprints and his identification by the victim of the first assault.

[4] We also accept that no prejudice resulted from the appellant’s failure to complete his cross-examination of his trial counsel on her affidavit in respect of the IAC claim. We note that the appellant aborted the cross-examination – which was peremptory on him – following objections to the manner in which he was questioning his trial counsel. There is no reason to believe that, if another opportunity for cross-examination had been permitted, the appellant would

conduct it in a proper and focused manner, or that it would in any way advance his arguments on appeal.

[5] The appeal is accordingly dismissed.

“K. van Rensburg J.A.”

“A. Harvison Young J.A.”

“L. Sossin J.A.”