

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Matthews, 2026 ONCA 167

DATE: 20260305

DOCKET: COA-26-CR-0118

Fairburn A.C.J.O., Paciocco and Wilson JJ.A.

BETWEEN

His Majesty the King

Respondent

and

Omar Matthews

Appellant

Omar Matthews, acting in person

Michelle Psutka, appearing as duty counsel

Jacob Millns, for the respondent

Heard and rendered orally: March 3, 2026

On appeal from the order of Justice Marquis S.V. Felix of the Ontario Court of Justice, dated January 6, 2025, dismissing an appeal from the convictions entered on October 4, 2007, by Justice of the Peace Odida Quamina of the Ontario Court of Justice.

REASONS FOR DECISION

[1] The appellant was convicted in 2007 of various offences under the *Highway Traffic Act*, R.S.O. 1990, c. H.8. He appealed on October 15, 2007. It would appear

he did nothing to pursue his appeal until he received a notice of a purge hearing dated November 1, 2024.

[2] Before the Ontario Court of Justice judge, the appellant claimed that the delay was occasioned by the court that failed to provide the transcript he ordered at the time he filed his notice of appeal. One thing is certain, the transcript was not produced and so many years later cannot be produced.

[3] The respondent argues that there is no evidence that the transcript was ordered. For purposes of this appeal, we are prepared to accept that the transcript was ordered. Even so, it remains the appellant's onus to pursue his appeal with due diligence.

[4] The Ontario Court of Justice judge was entitled to arrive at the conclusion that the appeal was not pursued with due diligence. He dismissed the appeal on that basis. This court granted leave to appeal from that decision on an earlier date.

[5] In our view, 17 years of delay without any steps to follow up on the transcript does not constitute due diligence. Despite Ms. Psutka's very capable assistance today, we see no error in the appeal judge's conclusion.

[6] As a result, the appeal is dismissed.

"Fairburn A.C.J.O."
"David M. Paciocco J.A."
"D.A. Wilson J.A."