NOVA SCOTIA COURT OF APPEAL
Citation: *R. v. C.R.V.*, 2025 NSCA 69

Date: 20250926
Docket: CAC 545408
Registry: Halifax

Between:

C.R.V.

Applicant

v.

His Majesty the King

Respondent

Restriction on Publication: ss. 486.4 and 486.5

Judge:	Gogan, J.A.
Motion Heard:	August 14, 2025 and September 9, 2025, in Halifax, Nova Scotia in Chambers
Written Decision:	September 26, 2025
Held:	Motion to extend time to file a Notice of Appeal dismissed.
Counsel:	C.R.V., self-represented applicant Erica Koresawa, for the respondent

Order restricting publication — sexual offences

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judge or justice may make an order directing that any information that could identify the victim or a witness shall not be published in any document or broadcast or transmitted in any way, in proceedings in respect of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, 160, 162, 163.1, 170, 171, 171.1, 172, 172.1, 172.2, 173, 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 from time to time before the day on which this subparagraph comes into force, if the conduct alleged would be an offence referred to in subparagraph (i) if it occurred on or after that day; or

(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).

Mandatory order on application

(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.

Victim under 18 — other offences

(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the presiding judge or justice may make an order directing that any information that could identify the victim shall not be published in any document or broadcast or transmitted in any way.

Mandatory order on application

(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.

Child pornography

(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.

Limitation

(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.

Order restricting publication — victims and witnesses

486.5 (1) Unless an order is made under section 486.4, on application of the prosecutor in respect of a victim or a witness, or on application of a victim or a witness, a judge or justice may make an order directing that any information that could identify the victim or witness shall not be published in any document or broadcast or transmitted in any way if the judge or justice is of the opinion that the order is in the interest of the proper administration of justice.

Chambers Decision:

Introduction

[1] This is a decision on a motion to extend time to start an appeal.

[2] On April 3, 2023, C.R.V., was convicted of multiple assaults and a sexual assault by Justice John Keith (*R. v. C.R.V.*, 2023 NSSC 169). All charges involved the same victim who was an intimate partner. C.R.V. was sentenced on September 19th, 2023, to a conditional sentence order ("CSO") and probation along with ancillary orders.

[3] On July 29, 2025, C.R.V. filed a notice of motion seeking to extend time to file a Notice of Appeal. His draft notice indicated an intention to appeal the sentence imposed some twenty-two months previously. C.R.V. explained the delay by saying he suffered from adjustment disorder and bipolar disorder, both of which contributed to his failure to pursue a timely appeal.

[4] C.R.V. was represented by counsel during his trial and sentencing. He is self-represented on this motion. The Crown opposes the motion.

[5] I heard this motion over two days, August 25 and September 9, 2025. I reserved my decision. I have decided to dismiss the motion. My reasons follow.

Analysis

Background

[6] There are unique aspects of the trial proceeding deserving elaboration before embarking on the analysis.

[7] The events underlying the charges against C.R.V. took place in October and November 2018 in the context of a marriage breakdown. C.R.V. was charged with a total of nine counts of assault and sexual assault. The trial took place over five days in January, 2023 and included the testimony of C.R.V. who denied all allegations made by the complainant claiming she "exaggerates, distorts and even manufactures facts to criminalize [him and] … secure an advantage in the extremely acrimonious divorce proceedings".[1]

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[1] *R. v. C.R.V.*, 2023 NSSC 169 at para. 7 [*C.R.V.*].

[8] Justice Keith delivered an oral decision on April 3, 2023, convicting C.R.V. of assault and sexual assault.[2] After an extensive review of the evidence and governing principles, the trial judge found C.R.V. was not a credible witness.[3] The matter was adjourned for sentencing, and a pre-sentence report was ordered.

[9] Prior to C.R.V.'s sentencing hearing a disclosure issue arose. On August 17, 2023, the Crown advised defence counsel that it had failed to disclose a significant volume of communications with the complainant.[4] After consideration of the issue, the parties presented the court with a joint recommendation on sentence proposing C.R.V. serve a two-year conditional sentence order, including a period of 17 months of house arrest, followed by three years of probation. In their sentencing submissions, both parties identified the potential of a mistrial or other relief resulting from the Crown's failure to disclose relevant material. Given the circumstances, the parties submitted the post conviction sentencing position reflected a true *quid pro quo* and should be accepted. Both parties would have certainty and finality, and the proposed sentence was compliant with the principles set out by the Supreme Court of Canada in *R v. Anthony-Cook*, 2016 SCC 43.

[10] In his unreported sentencing decision, Justice Keith acknowledged the context of the joint recommendation:

> Leading up to today, and in what I referenced earlier as somewhat – a somewhat unusual aspect of this matter, the Crown filed three written submissions on sentencing; May 29, July 10 and then finally on September 9, and over the course of those same months, the Crown's position has evolved, and that evolution originates, as Mr. Giacomantonio mentioned, and as Mr. Taylor mentioned as well, nearly 400 pages of written communication between the victim […] and the Crown, and there was a suggestion in the materials that there may be a further document, contested document, over which the Crown claims litigation privilege.
>
> …
>
> That disclosure … led to an evolution of the Crown's position, as I mentioned in a number of respects. First of all, there was full disclosure of everything except that over which the Crown was claiming litigation privilege. And in doing so, the Crown acknowledged in retrospect, some of the email

[2] *C.R.V.* at paras. 162-170.
[3] *C.R.V.* at para. 112.
[4] The record refers to August 17, 2023 as the date the issue was disclosed. It is acknowledged that C.R.V.'s evidence provides June 15, 2023 as the date when the post conviction disclosure package was received.

> communications may have supplied context that could have had an impact on the decisions of the defence …
>
> And so ultimately, it was decided between the parties that the best solution, and the one that would best achieve justice in the circumstances for all parties, would be the joint recommendation.

[11] After considering the applicable legal principles, Justice Keith accepted the joint recommendation. The CSO was imposed effective September 19, 2023. Over 22 months after being sentenced, C.R.V. filed the present motion indicating a wish to pursue an appeal on the following grounds (quoting from his draft Notice of Appeal):

> 1) The trial judge erred by binding himself to Anthony-Cook and the "public interest" standard with respect to the joint recommendation negotiated by counsel after trial.
> 2) The Crown's failure to make full disclosure, revealed after the verdict, was not judged by the judge at sentencing because of 1) above.
> 3) Given the violation of my fair trial rights vis a vis Crown failure to disclose and issues of missing information at sentencing, the judge did not issue a stay of proceeding resulting in a miscarriage of justice.

[12] C.R.V. now moves for an order extending the deadline to begin his appeal. In support of his motion, he offered affidavit evidence and was cross-examined by Crown counsel. Relevant portions of the evidence will be discussed in the analysis that follows.

The Guiding Principles

[13] Motions of this kind are governed by provisions of the *Criminal Code* and *Civil Procedure Rules*, as well as well-settled principles**.** Section 678 of the *Code* provides:

> **Procedure on Appeals**
>
> **Notice of appeal**
>
> 678 (1) An appellant who proposes to appeal to the court of appeal or to obtain the leave of that court to appeal shall give notice of appeal or notice of his application for leave to appeal in such a manner and within such period as may be directed by rules of court.
>
> **Extension of time**

> (2) The court of appeal or a judge thereof may at any time extend the time within which notice of appeal or notice of an application for leave to appeal may be given.

[14] *Civil Procedure Rule* 91 governs criminal appeal procedure in Nova Scotia and provides:

> **91.04 Extension of Time**
>
> (1) Any time prescribed by this Rule may be extended or abridged by a judge of the Court of Appeal or the Court of Appeal before or after the time has expired.
>
> (2) A person who seeks an extension or abridgment of a time period in the *Code* or this Rule may may make a motion to a judge of the court of appeal or the Court of Appeal under a provision in the Code, such as subsection 678(2), under Rule 2 – General, or under subsection (1) of this Rule.
>
> …
>
> **91.09 Deadline for starting appeal**
>
> (1) For the purpose of section 678 and 839 of the Code, a person may start an appeal of a judgment by filing a notice of appeal no more than twenty-five days after one of the following:
>
> (a) the day the appellant is sentenced, if the appeal is from a conviction, finding of guilt, or sentence, or both a conviction or finding of guilt and a sentence;
>
> …
>
> (2) The period is calculated under Rule 94.02, of Rule 94 – Interpretation, and it is subject to being extended under section 678 of the *Code* or Rule 91.04.

[15] Both the *Code* and the *Rules* provide a judge of this court with discretion to extend the time for an appeal. In *R. v. M (R.E.)*, 2011 NSCA 8, Justice Beveridge reviewed the guiding principles:

> [39] Both in Nova Scotia, and elsewhere, the criteria to be considered in the exercise of this discretion has been generally the same. The Court should consider such issues as whether the applicant has demonstrated he had a *bona fide* intention to appeal within the appeal period, a reasonable excuse for the delay, prejudice arising from the delay, and the merits of the proposed appeal. Ultimately, the discretion must be exercised according to what the interests of justice require. (See *R. v. Paramasivan* (1996), 1996 CanLII 5316 (NSCA), 155 N.S.R. (2d) 373; *R. v. Pettigrew* (1996), 1996 NSCA 17 (CanLII), 149 N.S.R. (2d) 303; *R. v. Butler*, 2002 NSCA 55; *R. v. Roberge*, 2005 SCC 48.).

[16] The considerations on these motions are not closed and will depend on the circumstances.[5] In the end, the question is what is in the interests of justice.

Application of the Principles

[17] I turn now to consider whether it is in the interests of justice to grant C.R.V.'s motion.

(a) Bona Fide Intention to Appeal

[18] In both his evidence and argument, C.R.V. said he first formed an intention to appeal on April 3, 2023, which is the date of his conviction and five months before his sentence was imposed. As the Crown points out, April 3, 2023, predates any awareness of post conviction disclosure issues or the sentence which C.R.V. now wishes to appeal.

[19] In supplementary evidence provided in response to the Crown's brief, C.R.V. explained his initial intent to appeal was abandoned when the disclosure issue arose. Although he acknowledges instructing counsel to abandon the mistrial application and negotiate a joint recommendation, he says his "second *bona fide* intention to appeal" was September 19, 2023, the date the joint recommendation was accepted, and sentence was imposed. C.R.V. contends his intent to appeal "crystalized" with the imposition of sentence and from that point he planned to contest the sentencing decision upon restoration of his mental health. The Crown submits C.R.V. has not demonstrated any genuine intent to appeal his sentence within the appeal period.

[20] On the evidence presented, it is challenging to discern the point at which C.R.V. formed the intent to appeal on the grounds he presently advances. It greatly strains credulity to conclude C.R.V. would immediately form an intent to appeal a sentence that he asked the court to impose. He was represented throughout his trial and sentencing by the same lawyer and makes no allegation of ineffective assistance of counsel. He contends he "maintained appeal rights" even as he instructed counsel to pursue a joint recommendation. I do not accept C.R.V.'s evidence he formed the intent to appeal at the same time his sentence was imposed.

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[5] *R. v. D.C.*, 2024 NSCA 90 at paras. 14-17; *R. v. Holloway*, 2024 NSCA 60 at para. 15, *R. v. T.M.*, 2022 NSCA 22 at para. 16, and *R. v. Ellison*, 2021 NSCA 8 at para. 16.

And there is no firm foundation on which I can be satisfied when the intent truly formed.

(b) Reasonable Excuse for the Delay

[21] C.R.V. was required to begin his appeal no later than 25 days after his sentence was imposed on September 19, 2023 (*Rule* 90.09(1)(a)). C.R.V. relates his failure to start his appeal before the deadline or move to extend time before July 29, 2025 to his mental health conditions. As he says in his affidavit:

> 9. Notwithstanding my wish and intention to file a Notice of Appeal, I was unable to do so because I suffered from Adjustment Disorder prior to, on and after the date of sentencing of September 19, 2023.
>
> 10. The Adjustment Disorder impacted my cognition to the extent that I was unable to hire a lawyer and, or, represent myself to my [*sic*] make a timely appeal.
>
> 11. In addition to suffering Adjustment Disorder, I suffer from Bipolar Disorder, a chronic medical disorder.
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> 12. The Bipolar Disorder is a matter of record of the Nova Scotia Supreme Court and the Nova Scotia Health Authority.
>
> …
>
> 12.[*sic*] On and after September 19, 2023, I was concerned that the stress of an appeal could trigger a debilitating bipolar episode so I did not pursue the appeal within the 25 day window.
>
> 13. This concern is rooted in experience and fact: as a result of Bipolar Disorder, I was on long term disability for two years from 2016-2017.
>
> 14. As a result of Bipolar Disorder, I was hospitalized at the Nova Scotia Hospital for nearly a month in 2016.
>
> 15. I am now healthy and well-positioned to make Notice of Appeal [*sic*].

[22] C.R.V. provided a medical report from Dr. Mary Ann Campbell (psychologist) as an exhibit to his affidavit (Exhibit 1). In her May 23, 2023 report, Dr. Campbell referred to a professional history with C.R.V. dating back to an initial assessment in 2019 and a course of treatment put in place for support and "should he need his stability verified for additional family court matters". When assessed, C.R.V.'s bipolar disorder was well-managed. Dr. Campbell opined C.R.V.'s capacity to work was then impacted by the stress of his criminal court proceedings. She diagnosed C.R.V. with adjustment disorder and reported he was completely unable to work between January and May, 2023. However, as of May

12, 2023, C.R.V. was “coping better now” and “currently has the capacity for employment at a reduced level (i.e., part-time hours)”. She concluded with a prospective view: “If he remains in the community upon sentencing, then he will likely be able to resume full-time employment in his profession”.

[23] Dr. Campbell’s letter is the only medical evidence offered on the motion. C.R.V. provided a great deal of general information on both adjustment disorder and bipolar disorder downloaded from a website hosted by the department of Veterans Affairs. He also provided non-medical information to explain the course of events he was contending with between May 30, 2023 and present day. As an example, his documentation included general occurrence reports completed by police investigating complaints about C.R.V. He claimed having interactions with police an average of once a month. As he explained in both evidence and argument, ongoing legal instability aggravated his mental health conditions. As he put it, he was engaged in a “sustained effort to manage symptoms and minimize the risk of recurrence”.[6] It was C.R.V.’s evidence that he felt able to pursue his appeal in June of 2025 after he handled another legal matter on his own. He related the improvement in his capacity to two items: (1) stable housing he was able to obtain on January 26, 2025; and (2) his last interaction with police on January 30, 2025.

[24] When cross-examined, C.R.V.’s evidence demonstrated his capacity to live independently and manage his personal, professional and legal affairs for much of the period under scrutiny. He acknowledged living in the community since September 19, 2023, and managing compliance with the extensive terms of his CSO. He admitted to changing residence on several occasions requiring changes to his CSO. On one occasion his trial counsel handled the variation. In January, 2025, he made an application to vary without counsel and attending court for this purpose. There was inadequate explanation as to why he couldn’t have initiated his proposed appeal at one of those two points in time.

[25] C.R.V. is a chartered accountant. He agreed he was able to work sporadically as of late May, 2023 and returned to work on a full-time basis in July of 2023. Between March 18 and October 22, 2024, he was able to respond to complaints made to professional regulatory bodies in two jurisdictions and engage in a discipline process. He was able to comply with his professional development

[6] C.R.V. detailed the events in three time periods: (1) May 30, 2023 – February 1, 2024; (2) January 17, 2024 – January 26, 2024; and February 26, 2025 to present.

requirements in this same period. In February, 2025, after a short period of informal discussion, he acquired a small business.

[26] The Crown does not contest C.R.V.'s mental health challenges, nor does it question the stress and other difficulties imposed upon him by various aspects of the legal process. However, it argues the evidence demonstrates no reasonable excuse for the considerable delay. C.R.V. was able to engage in a myriad of activities involving deadlines, decision making, and stressful situations, including at least one attendance in court and two regulatory investigations.

[27] On this point, I agree with the Crown. Although it is uncontested C.R.V. has mental health conditions, the evidence does not adequately explain why he was unable to commence his appeal before the deadline (assuming but not accepting he had formed the intent) or at any point since. The only available medical evidence anticipated C.R.V. would return to full time professional employment if serving a sentence in the community. C.R.V.'s own evidence confirms he was able to resume full time work by late July, 2023. It remains unclear why he couldn't have started an appeal as required under the rules given his ability to work, live independently and navigate the conditions of his sentence.

Prejudice

[28] The Crown argues the issue of prejudice is significant in this case. As it set out concisely in its motion brief:

> The Crown is not an ordinary litigant – it is an objective entity that seeks justice. However, prejudice to the interests the Crown seeks to protect can arise, even on a sentence appeal. Prejudice to the principle of finality is a relevant consideration here. When appeal periods expire, the victim and society expect that the matter has indeed concluded and they may move forward in their lives without legal proceedings weighing on them. Allowing appeals to be initiated – over 20 months after the appeal period has expired – erodes the principle of finality and, in turn, confidence in the justice system.

[29] C.R.V. did not directly address the issue of prejudice in his evidence or argument. The magnitude of the delay in this case raises prejudice as an overriding consideration. Parties are entitled to expect criminal proceedings to be conducted without delay and concluded with finality subject to *bona fide* and timely appeals. The fundamental principles underlying the administration of justice and our procedural rules support this expectation. The discretion to extend time for appeals must be considered in this context.

[30] The considerable delay in this case weighs strongly in favour of dismissing the motion. I note C.R.V. has served a significant portion of his sentence at this point. In my view, permitting an extension after this period of delay requires a very cogent explanation for the delay (which is not apparent) and a strong argument that the proposed appeal has merit.

Merit

[31] C.R.V. wishes to appeal the sentence imposed after convictions for assault and sexual assault. His sentence was the outcome of a joint submission presented to the trial judge. Effectively, C.R.V. is asking to appeal a sentence that he sought and was granted.

[32] The grounds of appeal proposed by C.R.V. do not challenge the sentence as being manifestly unfit or impacted by an error in principle. Nor does he raise an allegation of ineffective assistance of counsel. Rather, his grounds allege the trial judge erred in accepting the joint recommendation and faults the judge for not adjudicating the disclosure issue before imposing sentence.

[33] The record confirms C.R.V. never sought any form of direct relief from the Crown's failure to disclose. Instead, he instructed counsel to negotiate a joint recommendation on sentence. The existence of a disclosure issue formed the basis of the *quid pro quo* the parties invoked in support of the joint recommendation. In the absence of a joint submission, it is highly unlikely C.R.V. would have received a CSO and period of probation. Prior to the discovery of the disclosure issue, the Crown sought a 3.5-year custodial sentence. The sentence imposed gave C.R.V., an American citizen, a chance to avoid deportation.

[34] C.R.V. provided extensive evidence and argument on the merit of his proposed appeal. He argues the judge was wrong to impose the sentence he sought without first assessing the potential for relief from the disclosure issue. If permitted to appeal, he seeks a stay of proceedings.

[35] During his argument, C.R.V. suggested he had somehow reserved his right to appeal while at the same time instructing counsel to pursue the sentence ultimately imposed. To the extent there is evidence on this point, it doesn't support C.R.V. On the contrary, C.R.V. presented evidence he instructed counsel to pursue the joint submission instead of pursing a mistrial or an appeal of his conviction. The evidence clearly demonstrates C.R.V. understood the nature of the resolution

he instructed counsel to pursue. This conclusion is further bolstered by the absence of any allegation of ineffective assistance of counsel.

[36] The Crown argues there is no merit to C.R.V.'s proposed appeal. It provides three compelling rationales for its position:

> First, the appellant argues that the trial judge erred in *adopting* the joint recommendation. This is not a situation where the trial judge "jumped" a joint recommendation. To the contrary, the applicant – through his counsel – sought the very sentence imposed.
>
> Despite the fact that the matter had gone to trial, the parties arrived at a "true" joint recommendation. The Crown received the benefit of a certain conviction and the applicant received the benefit of an incredibility generous sentence "instead of pursuing any further mistrial application".
>
> The joint recommendation was arrived at upon consideration of the post-conviction disclosure, its potential impact on full answer and defence, and the potential stay of proceedings remedy that could have arisen from an associated application. These factors – which resulted in the Crown adjusting its post-trial recommendation from three and a half years jail to a CSO – are the very factors the applicant now says are the basis for his appeal. The applicant, through his counsel, already agreed to a means of resolving these issues – and received precisely what he wanted as a result. There is nothing about the trial judge adopting the joint recommendation that discloses any error.
>
> Second, the applicant argues that the trial judge failed to judge the late disclosure because he erroneously adopted the joint recommendation. However, the sentencing submissions and decision are clear that the trial judge was alive to the issue, understood how the issue impacted the parties' sentencing recommendation, and was not asked to adjudicate a motion pursuant to s. 7 of the *Charter* related to the late disclosure.
>
> The trial judge was not entitled to adjudicate the late disclosure in the absence of an application where the applicant was both represented by counsel and counsel had deliberately turned their mind to the issue.
>
> Third, the applicant argues that the failure to impose a stay of proceedings has resulted in a miscarriage of justice. As noted above, the applicant – through counsel – specifically contemplated and declined to pursue an application before the trial judge seeking a stay of proceedings.
>
> The applicant effectively seeks to raise a s. 7 issue for the first time on appeal. Appellate courts are reticent to entertain new issue on appeal. One part of the test for granting leave to raise a new issue is that "the failure to raise the issue [is not] due to tactical reasons. Here, the failure to raise the issue at trial was entirely tactical – to gain the benefit of a jointly recommended, lenient sentence.

(Emphasis added, citations and references to evidence omitted)

[37] The Crown's position on the merit of the proposed appeal has considerable resonance. The grounds advanced by C.R.V. in this case fall far short of the mark and fail to demonstrate arguable merit. In the circumstances, I am not persuaded it is in the interests of justice to extend time to the proposed appeal.

Conclusion

[38] On this motion, C.R.V. is required to demonstrate it is in the interests of justice to extend time for his appeal. I am not persuaded by C.R.V.'s arguments on any of the relevant considerations. I am unable to determine when C.R.V. first formed a *bona fide* intent to appeal. The delay here is considerable with no reasonable excuse for failing to initiate an appeal before the deadline or at any point since. I am not satisfied there is merit in the proposed appeal and prejudice has accrued. It is not in the interests of justice to grant an extension of time to start the proposed appeal.

[39] C.R.V.'s motion is dismissed.

Gogan, J.A.