

In the Court of Appeal of Alberta

Citation: R v Pritchard, 2026 ABCA 246

Date: 20260723
Docket: 2501-0037A
Registry: Calgary

Between:

His Majesty the King

Respondent

- and -

James Francis Pritchard

Appellant

Restriction on Publication

Identification Ban – See the *Criminal Code*, section 486.4.

By Court Order, information that could identify the victim or witness must not be published, broadcast, or transmitted in any way.

NOTE: Identifying information has been removed from this judgment to comply with the ban so that it may be published.

The Court:

**The Honourable Justice Jolaine Antonio
The Honourable Justice April Grosse
The Honourable Justice Alice Woolley**

Memorandum of Judgment

Appeal from the Sentence by
The Honourable Justice B.L. Shaw
Sentenced the 28th day of April, 2025
(Docket: 240364927P1)

Memorandum of Judgment

The Court:

[1] The appellant James Francis Pritchard appeals the eight-year custodial sentence imposed following his conviction for sexual assault with a weapon: *R v Pritchard*, 2024 ABCJ 219 [Conviction Decision]. The assault was recorded on CCTV, and partially witnessed by a good Samaritan, MM, who left her home to investigate after hearing the victim's screams, and intervened to prevent the assault from continuing: *Conviction Decision* at paras 18-22.

[2] After 1:00am on March 10, 2024, the appellant and the victim walked through a parking lot. According to him, the appellant did not know the victim. As they walked, the appellant retrieved a crowbar he had concealed in his jacket. The victim was slightly ahead of the appellant with her back turned when he struck her in the back of the head. She fell to the ground, at which point the appellant struck her a second time. The second blow hit the victim on her arms, which she had raised to cover her head. She was crying, yelling and in distress. The appellant pulled the victim into a kneeling position, undid his belt, put his hand behind her head, and pulled her towards his groin to perform fellatio on him: *Conviction Decision* at paras 35, 49-52, 65.

[3] At that point, the appellant and victim were approached by MM who said, "Hey, what are you doing?" She then asked the victim if she knew the appellant, and the victim said no. The appellant told MM to "fuck off"; MM saw the crowbar and ran forward and grabbed it, at which point the appellant ran away saying, "You are ruining my night": *Conviction Decision* at paras 20-22, 33.

[4] The appellant was convicted based on the CCTV footage and the testimony of MM and a police officer. The victim was not located and did not testify at trial. The appellant also did not testify, although his statement to police was adduced: *Conviction Decision* at paras 1, 16-17.

[5] Prior to sentencing, the Crown requested a psychological and risk assessment, but the appellant did not consent to being assessed. No presentence report was available for the sentencing judge.

[6] The appellant submits the sentencing judge committed five errors in principle affecting sentence that merit the intervention of this Court: *R v Friesen*, 2020 SCC 9 at para 26 [Friesen].

[7] First, he says the sentencing judge erred by finding his attack on the victim was predatory because the sentencing judge relied on the victim having been incapacitated by the attack. The appellant submits that the evidence shows the victim was alert and walking unaided, which is inconsistent with incapacity.

[8] The sentencing judge did not err. She based her finding that the attack was predatory on the appellant taking advantage of a vulnerable person, and on the appellant striking the victim with a crowbar he had concealed on his person with the *intention* of incapacitating her. She found that the “natural consequences of striking someone on the back of the head with a crowbar, as Mr. Pritchard had, would be for that person to be incapacitated. I do not find anything to suggest Mr. Pritchard did not intend the natural consequences of his actions”. That finding was available on the record and is entitled to deference from this Court. The finding of predatoriness was also well supported by other evidence. The appellant brought a crowbar with him and concealed it on his person in advance of using it to attack the victim. The victim was a vulnerable person, with the evidence of MM and the responding police officer indicating she was homeless at the time: *Conviction Decision* at para 45.

[9] Second, the appellant alleges the sentencing judge erred by relying on his prior conviction, in 2002, for criminal negligence causing death. He objects to the sentencing judge considering the facts related to that offence, when they were not in evidence. He also challenges the sentencing judge’s conclusion that the prior offence “exhibited disregard to human life” as lacking a sufficient basis in the record. He says the information before the sentencing judge was too limited for the prior conviction to be treated as related criminal behaviour.

[10] The facts of the appellant’s prior offence, which involved an assault on his then girlfriend’s four-year-old son, resulting in the son’s death, were referenced by trial counsel for both the Crown and defence. The Crown included them in its presentencing written submissions. During oral argument, defence counsel stated, “we have a conviction over two decades old concerning a child of course who was in his care”. The central facts were not contested before the sentencing judge. There was no error in her relying on those uncontested facts in the circumstances. The sentencing judge properly observed that she must not resentence the appellant for his prior conviction: *R v Angelillo*, 2006 SCC 55 at para 24. She did not err in considering the appellant’s record was relevant both to the importance of specific deterrence and to the likelihood of rehabilitation: *R v Emmelkamp*, 2013 ABCA 71 at para 20; *R v Ridsdale*, 2004 ABCA 315 at para 4; *R v Sinclair*, 2022 MBCA 65 at para 43.

[11] Third, the appellant says the sentencing judge unfairly discounted his statement of remorse, faulting him for the brevity of his comments during sentencing.

[12] This ground of appeal does not accurately reflect the sentencing judge's reasons or the record. The sentencing judge considered the content of the appellant's written submissions and statement before her, including his explanation that he was "intoxicated" and that he was "remorseful for assaulting [the victim] with a crowbar". She reasonably concluded, "Being remorseful for only striking her with a crowbar does not come close to appreciating the gravity of the conduct". Her assessment was based in the record before her and clearly explained. The sentencing judge made no reviewable error in finding the appellant had not taken responsibility for his conduct: *Friesen* at para 165.

[13] Fourth, the appellant says the sentencing judge did not sufficiently consider his rehabilitation, as evidenced by the 20-year gap in his criminal record. He says rehabilitation remained relevant, even in a case such as this, when denunciation and deterrence are paramount.

[14] The sentencing judge made no reviewable error. The appellant's refusal to participate in any presentence assessments meant she had limited evidence about rehabilitation. However, she considered that evidence in light of the applicable legal principles for assessing rehabilitation in a case where denunciation and deterrence are paramount: *R v Arcand*, 2010 ABCA 363 at para 274 [*Arcand*]; *Friesen* at para 104; *Criminal Code*, RSC 1985 c C-46, s 718.04.

[15] Finally, the appellant objects to the sentencing judge's assessment of parity given comparator cases which, he says, do not support the eight-year sentence imposed.

[16] The principle of parity does not override the sentencing judge's obligation to identify a sentence that is proportionate to the gravity of the offence and the degree of responsibility of the offender: *R v Bellows*, 2025 ABCA 100 at para 48; *R v Parranto*, 2021 SCC 46 at para 12; *Friesen* at paras 32-33. A sentencing judge must identify a proportionate sentence given the circumstances of the offence and the offender and, while comparator cases can assist in the analysis, they do not dictate the outcome: *R v EAM*, 2019 ABCA 413 at para 14; *Arcand* at para 123. Here, the sentencing judge considered each of the cases submitted, noting the distinctions from the case at hand, and that each case predated the Supreme Court's decision in *Friesen*, which cautions courts about relying on dated precedents that may not reflect society's current understanding of the gravity of sexual offences and the harm they cause.

[17] Ultimately, the sentencing judge did not err in principle. She imposed a sentence taking into account the appellant's planned, violent and degrading assault of a vulnerable person, his

moral blameworthiness for that assault, the absence of mitigating factors to qualify that moral blameworthiness, and the limited evidence to support his prospects for rehabilitation.

[18] The appeal is dismissed.

Appeal heard on June 23, 2026

Memorandum filed at Calgary, Alberta
this 23rd day of July, 2026

Antonio J.A.

Grosse J.A.

Woolley J.A.

Appearances:

R.S. Dhillon
for the Respondent

J.N. Craig (no appearance)
G. Shiskin
R. Burrington
for the Appellant