Citation: R v Trenaman, 2026 MBCA 30
Date: 20260407

IN THE COURT OF APPEAL OF MANITOBA

Coram: Madam Justice Jennifer A. Pfuetzner
Mr. Justice David J. Kroft
Madam Justice Anne M. E. Turner

B E T W E E N:

	)	***L. C. Robinson***
HIS MAJESTY THE KING	)	*for the Appellant*
	)	
Respondent	)	***R. N. Malaviya, K.C.***
	)	*for the Respondent*
- and -	)	
	)	*Appeal heard and*
KENNETH STEWART GEORGE TRENAMAN	)	*Decision pronounced:*
	)	***March 25, 2026***
	)	
(Accused) Appellant	)	*Written reasons:*
	)	***April 7, 2026***

NOTICE OF RESTRICTION ON PUBLICATION: No one may publish, broadcast or transmit any information that could disclose the identity of the victim or a witness (see *Criminal Code*, RSC 1985, c C-46, s 486.4).

TURNER JA (for the Court):

Introduction

[1] The accused sought leave to appeal and, if granted, appealed his combined sentence of fourteen years for two counts of sexual interference. He also brought a motion for the admission of fresh evidence on the appeal.

[2] After hearing the appeal, we denied the motion for the admission of fresh evidence. We granted leave to appeal the sentence; however, we

dismissed the sentence appeal. We indicated that our reasons would follow. These are those reasons.

Background

[3] Over several years, the accused's wife operated a home-based daycare. The two victims, A.L. and A.G., attended the daycare.

[4] At trial, both victims testified that the accused sexually assaulted them multiple times when they were alone with him. A.G. was four years old at the time of the assaults. A.L. could not recall how old she was when she was first assaulted but testified that she attended the daycare when she was between approximately two and fourteen years old.

[5] The assaults against both girls included the accused touching their vaginas with his hands and/or mouth and having them touch his penis. A.G. also testified to two specific occasions when the accused had her put his penis either up to or in her mouth.

[6] The accused told both girls not to tell anyone. Both victims disclosed the abuse to their respective mothers years after they stopped attending the daycare. They each independently made statements to the police in 2022.

[7] The accused was convicted of two counts of sexual interference after trial. At the sentencing hearing, a pre-sentence report and medical reports regarding the accused's health were filed.

[8] The accused was seventy-two years old at the time of the sentencing. He had no previous criminal record and was assessed as a low risk to reoffend

generally and as a below-average risk to reoffend sexually.

[9] In terms of his health, the accused had a brain tumour removed several years after the offences and continued to suffer from some collateral effects; medications mitigated the effects and risks. The accused is an insulin-dependant diabetic and in a report prepared by his general practitioner in anticipation of the sentencing, the accused was described as "in poor overall health."

[10] A.L., A.G. and A.G.'s parents submitted victim impact statements. A.L.'s statement spoke to the shame and embarrassment she felt "for letting it happen" and the continued psychological effects she experiences. A.G.'s statement stated that she experienced nightmares and she continues to mistrust older men. A.G.'s parents' statement spoke to A.G.'s substance abuse and self-harm, as well as the devastating impact the offences had on their whole family.

[11] The trial judge found that a sentence of eight years in relation to each victim was appropriate, for a total of sixteen years. When she addressed totality, she noted the accused's medical circumstances and "advanced age". She concluded that the total sentence should be reduced by two years, to fourteen years, comprised of two consecutive seven-year sentences.

The Motion for Fresh Evidence

[12] On appeal, the accused sought to admit an affidavit from a legal assistant that attached approximately 120 pages of medical records (the records). The records covered a post-sentence period when the accused was

in the hospital after falling at the Winnipeg Remand Centre. The last update regarding his health condition in the records was from almost a year ago.

[13] We were not provided with any context for or medical opinion on the records. Our lay review of the records suggests that the accused substantially recovered from the acute condition that preceded his fall. He was eventually discharged to the Saskatchewan Regional Treatment Centre (SRTC) rather than to Stony Mountain Institution, as the SRTC was better able to accommodate his age-related mobility issues.

[14] We were not provided with any information regarding the accused's current prognosis or condition. We were also not provided with any information regarding how SRTC has been able to accommodate the accused and his medical needs over the past year.

[15] Ultimately, we were not persuaded that the fresh evidence satisfies the fourth part of the *Palmer* test (see *Palmer v The Queen*, 1979 CanLII 8 at 775 (SCC)), as it could not reasonably be expected to have affected the accused's sentence (see *R v Silaphet*, 2024 MBCA 58 at paras 75-79). The trial judge was already aware of the accused's age-related health decline. Moreover, the records show that when plans were being put in place to discharge the accused from the hospital, his medical needs were taken seriously and accommodated by the appropriate correctional service agency.

The Sentence Appeal

[16] The accused argues that the trial judge did not give adequate weight to his mitigating factors, erred in her consideration of totality and imposed a harsh and unfit sentence.

[17] The standard of review on a sentence appeal is deferential. This Court can only interfere with a sentence that is shown to be demonstrably unfit or where there is an error in principle that impacted the sentence (see *R v Friesen*, 2020 SCC 9 at para 26 [*Friesen*]). As Wagner J explained in *R v Lacasse*, 2015 SCC 64, "an appellate court may not intervene simply because it would have weighed the relevant factors differently" (at para 49; see also *Friesen* at para 104).

[18] In our view, the trial judge properly accounted for the accused's mitigating factors. In particular, she thoroughly reviewed the medical information that was submitted to her and concluded that there was no imminent medical condition that endangered the accused's health. She considered that the accused's time in custody would be more difficult than it would be on a younger person. While the trial judge may not have discussed these topics under a specific heading of "mitigating factors", on a reading of the reasons as a whole, it is clear that she seriously considered these factors in crafting the appropriate sentence. We are not persuaded that she made any error in that regard.

[19] In addition, the trial judge properly focused on the principles of denunciation and deterrence, as prescribed by section 718.01 of the *Criminal Code*, RSC 1985, c C-46. As such, circumstances personal to the accused are necessarily of lesser importance.

[20] On the issue of the totality of the sentence, a judge is required to take a "last look" (*R v Reader (M)*, 2008 MBCA 42 at paras 26-27) at a total sentence to ensure that the length of the sentence does not exceed the overall culpability of the offender. The judge must consider, among other things, the

gravity of the offences, the moral blameworthiness of the offender and the harm done to the victim(s). There is no requirement that a sentence be reduced. Moreover, where there is a high degree of moral culpability, it will be less likely that a sentence will be reduced to a significant extent (see *ibid* at para 27; see also *R v Wozny*, 2010 MBCA 115 at paras 59-60).

[21] In this case, the trial judge reduced the total sentence imposed by two years. She clearly considered the mitigating factors and the overall length of the sentence in making that decision. She made no error in doing so.

[22] We were also not persuaded that the sentence imposed was harsh and excessive. The trial judge considered and weighed all the relevant factors, including the mitigating factors already discussed. She recognized that the offences were serious and occurred on multiple occasions against two very young victims over a period of time. In particular, she recognized the significant aggravating factor that the accused violated the position of trust he held in respect of both the victims and their parents, who believed they were leaving their young daughters in the safe space of a daycare.

Disposition

[23] In the result, the accused's motion to admit fresh evidence was denied. We granted leave to appeal his sentence; however, we dismissed his sentence appeal.

Turner JA

Pfuetzner JA

Kroft JA