

In the Court of Appeal of Alberta

Citation: R v Sharphead, 2026 ABCA 329

Date: 20261019
Docket: 2603-0217A
Registry: Edmonton

Between:

His Majesty the King

Respondent

- and -

Nathaniel Robert Sharphead

Applicant

**Reasons for Decision of
The Honourable Justice Michelle Crighton**

Application for Judicial Interim Release

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[1] The applicant was convicted after trial on one count of aggravated assault and sentenced to six months gaol, followed by 18 months probation. The applicant appeals his conviction and sentence and applies for interim judicial release pending appeal.

[2] The facts are brief.

[3] The applicant and the complainant have been friends on and off for several years. On May 12, 2025, they were both drinking. The complainant testified they also consumed some cocaine. The applicant denied any cocaine use. They went to the River Cree Casino where they consumed more alcohol before returning to the applicant's apartment where they continued drinking.

[4] The complainant stated the applicant suddenly accused the complainant of sleeping with the applicant's girlfriend and hit the complainant in the face with an extendable baton, splitting the complainant's lip and causing his front tooth to fall out.

[5] The complainant left the apartment and called police. Police went to the apartment where they recovered the tooth and released the applicant on an undertaking.

[6] The police neither found nor looked for the extendable baton.

[7] The applicant testified the injuries the complainant suffered occurred when he got into an altercation with police at the River Cree Casino. This version of events was never put to the complainant, and trial counsel advised the trial judge during an adjournment application that he had heard this version of events for the first time at trial.

[8] The applicant has a prior record for uttering threats, mischief under \$5,000, failing to comply for which he received a sentence of 14 days plus 12 months probation, assault with a weapon, and assault x 4, including three assault convictions and one uttering threats conviction for which he was sentenced (to a 12 month conditional sentence order and 12 months probation) earlier on the same day as his sentencing in this matter.

[9] The applicant has the onus to show his appeal is not frivolous, meaning it will not necessarily fail, he will surrender himself and his detention is not necessary in the public interest: s 679(3) of the *Criminal Code*.

[10] The applicant has not met this onus.

[11] To properly assess the strength of an appeal, one must have regard to the applicable standard of review. The applicant's grounds challenge the reasonableness of the verdict based on the assertion that an intoxicated complainant cannot be found credible and the facts found should

not ground a conviction for aggravated assault. To establish an unreasonable verdict, the applicant must demonstrate that a properly instructed jury acting judicially could not have reasonably reached the verdict or, “that is plainly contradicted by the evidence relied on to support it or logically incompatible with evidence not rejected by the trial justice”. Both such errors are “exceedingly rare”, and an appellate court is not allowed to substitute its own findings of fact or credibility: *R v King*, 2026 ABCA 224 at para 11. There is no recognized legal principle that without more, a trial judge commits palpable and overriding error because they believe a witness who was intoxicated.

[12] The trial judge correctly stated the law relative to aggravated assault. An injury grounding a conviction for aggravated assault, that is to “wound, maim, or disfigure”, is not defined in the *Criminal Code*, but, jurisprudentially, a “wound” has been described as an injury which breaks the skin and bleeds, which is more than transient or trifling, and which will leave a scar if not surgically altered. “Maim” has been described as the significant loss or function of some part of the body.

[13] In her reasons for convicting the applicant, the trial judge found most of the respondent’s testimony to be “unreliable and not credible”. However, she did accept his admission that he pushed the complainant with enough force to cause his tooth to fall out and that the injury required a bridge and an artificial tooth. At no time had the complainant been physical with the applicant. She found it more likely than not that a baton was used, but that fact was not proved beyond a reasonable doubt. While the applicant states he should have been convicted of a lesser offence, at the most assault causing bodily harm, even if he is successful on appeal, the result would be a substituted verdict for the lesser and included offence rather than a retrial. Beyond stating what offence he ought to have been convicted of, the applicant identifies no error on the part of the trial judge that the injuries found (the complainant’s lost tooth) meet the *Criminal Code* requirements for aggravated assault. Given the standard of review, and absent identified error, one can say with some confidence the applicant’s appeal is not likely to succeed.

[14] The respondent notes the failure to appear on the applicant’s record but does not rely on that to argue that he will not surrender when required. It is not necessary to consider this part of the test.

[15] Turning to whether the applicant’s detention is not in the public interest, it must be stated that the applicant does not have the benefit of the presumption of innocence. He bears the onus to show that his detention is not in the public interest.

[16] The applicant has accumulated several convictions for violent offences and had other charges of violence outstanding when he committed this offence. He says he could be working in a diamond mine, but offers no substantiated offer of employment. It bears mentioning he was employed at the time of this offence and according to his lawyer, he is law-abiding if there are no humans within 10 miles of him. The applicant offers nothing that meaningfully speaks to the risk his release presents to the public.

[17] I am mindful the applicant will likely serve his sentence before his conviction appeal can be heard, but the relative lack of merit to the grounds of appeal and the unanswered risk his release presents to the public weigh against his release pending appeal.

[18] The application is dismissed.

Application heard on October 15, 2026

Reasons filed at Edmonton, Alberta
this 19th day of October, 2026

Crighton J.A.

Appearances:

T.L. Couillard, KC
for the Respondent

W.L. Willier
for the Applicant