

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Benyamin, 2026 ONCA 389

DATE: 20260604

DOCKET: COA-24-OM-0410

George, Monahan and Pomerance JJ.A.

BETWEEN

His Majesty the King

Respondent

and

Sandy Benyamin

Applicant

Sandy Benyamin, acting in person

Myles Anevich, appearing as duty counsel

Étienne Lacombe, for the respondent

Heard and rendered orally: June 2, 2026

On appeal from the decision of the summary conviction appeal court by Justice Paul B. Schabas of the Superior Court of Justice, on November 12, 2024, dismissing an appeal from the conviction entered by Justice Robert Wright of the Ontario Court of Justice, on January 26, 2023, and from the sentence imposed on August 17, 2023.

REASONS FOR DECISION

[1] The applicant seeks leave to appeal from a decision of the Summary Conviction Appeal Court affirming his conviction for criminal harassment of his sister-in-law.

[2] The applicant submits that leave should be granted on the basis that the Summary Conviction Appeal Court judge committed a clear error of law: *Criminal Code*, R.S.C., 1985, c. C-46, s. 839.

[3] The applicant was found to have harassed the complainant by repeatedly communicating with her, causing her to reasonably fear for her safety and the safety of her family. The applicant raises two issues in seeking leave to appeal.

[4] First, he argues that the Summary Conviction Appeal Court judge committed a clear legal error in upholding the trial judge's finding that the applicant did not have lawful authority to engage in the harassing communications. We do not agree.

[5] The evidence established multiple harassing communications. For example, in one 24-hour period the applicant called the complainant at least 30 times at her place of employment. He also posted numerous messages on her business website. There is no lawful authority for communications that are aimed at harassment. This ground of appeal has no merit.

[6] Second, the applicant argues that the Summary Conviction Appeal Court judge made a clear legal error in upholding the trial judge's finding that the communications caused the complainant to experience objectively reasonable fear. Here, too, we see no basis on which to grant leave. The Summary Conviction Appeal Court judge properly deferred to the trial judge's findings of fact regarding

subjective fear, and applied the correct legal principles in evaluating the reasonableness of that fear. Given the volume, timing and content of the applicant's communications, and the earlier threat to cause harm to the complainant's child, it was amply open to the Summary Conviction Appeal Court judge to uphold the finding of the objectively reasonable fear.

[7] We see no error of law, let alone a clear error of law, that would warrant the granting of leave to appeal: *R. v. R.(R.)*, 2008 ONCA 497, 90 O.R. (3d) 641, at paras. 24, 32, 37.

[8] Accordingly, leave to appeal is denied.

"J. George J.A."

"P.J. Monahan J.A."

"R. Pomerance J.A."