

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Lillico, 2026 ONCA 397<sup>1</sup>

DATE: 20260608

DOCKET: COA-25-CR-0521

George, Monahan and Pomerance JJ.A.

BETWEEN

His Majesty the King

Respondent

and

Kenneth Lillico

Appellant

Kenneth Lillico, acting in person

Lynda Morgan, appearing as duty counsel

Kevin Pitt, for the respondent

Heard and rendered orally: June 3, 2026

On appeal from the convictions entered by Justice Jeffery R. Richardson of the Ontario Court of Justice, on February 15, 2023, and from the sentence imposed on January 14, 2025.

REASONS FOR DECISION

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<sup>1</sup> This appeal is subject to a publication ban pursuant to s. 486.4 of the *Criminal Code*, R.S.C. 1985, c. C-46.

[1] The appellant was convicted of sexual interference contrary to s. 151 of the *Criminal Code*, R.S.C. 1985, c. C-46 and sentenced to five years' incarceration. He appeals his conviction and seeks leave to appeal his sentence.

[2] At the outset, the parties agreed that the appellant's sentence appeal should be bifurcated from his conviction appeal, in order to explore the possibility of Legal Aid funding for the sentence appeal. We therefore bifurcate the appeals and direct that the sentence appeal be spoken to during the September 2026 inmate sittings.

[3] The only witness at trial was the complainant, who testified that she was sexually assaulted by the appellant on two occasions between 2001 and 2003 when she was under the age of 14 and he was between 31 and 33 years old. On the first occasion the complainant said that the appellant kissed her and then pulled back, while on the second occasion he kissed her and then proceeded to have vaginal sex with her.

[4] The legal age of consent at the time was 14. The trial judge found that because the complainant was under that age, she was incapable of consenting. The trial judge further found that there was no evidence that the appellant took reasonable steps to ascertain the complainant's age, and there was no air of reality to a defence under s. 150.1(4) of the *Criminal Code*. He therefore convicted the appellant of sexual interference.

[5] The appellant appeals his conviction on the basis that the trial judge erred in his assessment of the complainant's credibility, including inconsistencies in her testimony. It is well established that a trial judge's credibility assessments are entitled to particular deference: *R. v. G.F.*, 2021 SCC 20, [2021] 1 S.C.R. 801, at para. 81; *R. v. Kruk*, 2024 SCC 7, 489 D.L.R. (4th) 385, at paras. 82-84. Although the appellant disputes the findings of the trial judge, he has not identified any reviewable error in those findings. The conviction appeal is therefore dismissed.

"J. George J.A."

"P.J. Monahan J.A."

"R. Pomerance J.A."