

COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Lee, 2026 ONCA 35

DATE: 20260120

DOCKET: COA-25-OM-0445

Roberts J.A. (Motion Judge)

BETWEEN

His Majesty the King

Respondent/Responding Party

and

Kwang Won Lee

Appellant/Moving Party

Kwang Won Lee, acting in person

Jason Morische, for the responding party

Mohsen Seddigh, appearing as *amicus curiae*, Pro Bono Ontario

Heard: December 3, 2025

REASONS FOR DECISION

[1] The moving party seeks an extension of time to appeal part of his sentence. The Crown opposes the motion.

[2] Following a guilty plea and a joint submission on sentence, on September 7, 2023, the moving party was convicted of fraud over \$5,000 for having failed to declare income and pay taxes to the Canadian Revenue Agency

("CRA"). He received a conditional sentence of two years less a day and a fine based on the amounts owing to CRA in the amount of \$990,000. The moving party paid \$749,963 of the fine but has failed to pay the balance of \$240,037. He seeks to reduce the fine by the balance owing so that he has no further amount to pay to CRA.

[3] It is not in the interests of justice to grant the requested extension. The moving party does not meet the following well-established factors, set out in *R. v. Ansari*, 2015 ONCA 891, 128 O.R. (3d) 511, at paras. 22-23, that inform this analysis:

- (1) There is no evidence that he intended to appeal before he filed this motion, more than two years after the imposition of the fine.
- (2) The more than two-year delay is inordinate and inadequately explained. His claim that he recently found an additional \$240,000 payment to CRA that was unaccounted for in the \$990,000 fine arising out of the joint position of the parties is unsupported by any admissible evidence. According to the responding party's uncontested evidence, that amount was included in the disclosure provided to him and his counsel in 2017, well before his guilty plea and sentencing in 2023.
- (3) There is no merit to his proposed appeal. The moving party does not resile from his consent to the guilty plea and joint position on sentence

nor does he allege ineffective assistance of counsel who represented him in the resolution of the proceedings. He does not object to the \$990,000 fine as the product of an error in principle or as unfit. Rather, the moving party appears to allege that there was a computation error in the calculation of the amount of monies owing to CRA because of his alleged additional \$240,000 payment in 2017. The sentence imposed by a trial court is entitled to considerable deference: *R. v. Lacasse*, 2015 SCC 64, at para. 41. It follows that the \$990,000 fine in this case that formed part of a joint position is subject to very high appellate deference; joint submissions are a “proper and necessary part of the administration of criminal justice”, in part due to the near-certainty of their acceptance: *R. v. Anthony-Cook*, 2016 SCC 43, [2016] 2 S.C.R. 204, at paras. 5 and 41. The moving party has not asserted that the acceptance of the joint position on sentence, to which he agreed with the assistance of counsel, was an error. I see no basis here for appellate intervention.

[4] The moving party, through *amicus*, asked for the opportunity to provide further materials that he believed may support his allegation of a computation error. It is not in the interests of justice to allow this opportunity because the moving party could not confirm that he actually had documents or other evidence that supported his allegations; rather, he thought or hoped he might be able to find them.

[5] The moving party was represented by competent counsel throughout the criminal proceedings that culminated in the guilty plea and joint position on sentence and fine. It is a fair inference from the high presumption of counsel's competence that he would have asked the moving party to give him any evidence that he had of payments made to CRA. Moreover, the moving party received substantial disclosure from the Crown, which, according to the responding party's evidence, included a 2017 \$240,000 payment to CRA. There is no unfairness or miscarriage of justice here.

[6] The motion is therefore dismissed.

[7] The court is indebted to *amicus* for his very helpful assistance.

“L.B. Roberts J.A.”