

COURT OF APPEAL FOR YUKON

Citation: *R. v. K.S.*,
2026 YKCA 9

Date: 20260624
Docket: 25-YU935

Between:

Rex

Respondent

And

K.S.

Appellant

Restriction on publication: A publication ban has been mandatorily imposed under s. 486.4 of the *Criminal Code* restricting the publication, broadcasting or transmission in any way of evidence that could identify the complainant. This publication ban applies indefinitely unless otherwise ordered.

Before: The Honourable Justice Griffin
The Honourable Justice Manocchio
The Honourable Justice MacNaughton

On appeal from: An order of the Territorial Court of Yukon, dated April 8, 2025 (conviction) (*R. v. K.S.*, 2025 YKTC 19, Watson Lake Docket 23-10035).

Oral Reasons for Judgment

No one appearing on behalf of the Appellant

Counsel for the Respondent:

L. Lane

Place and Date of Hearing:

Whitehorse, Yukon
June 24, 2026

Place and Date of Judgment:

Whitehorse, Yukon
June 24, 2026

Summary:

The Crown applies to dismiss the appellant's appeal from conviction for want of prosecution pursuant to R. 13 of the Yukon Territory Court of Appeal Criminal Appeal Rules.

Held: Application granted. The appellant has failed to diligently pursue his appeal.

[1] **MACNAUGHTON J.A.:** The Crown applies to dismiss the appellant's appeal from conviction, for want of prosecution pursuant to R. 13 of the *Yukon Territory Court of Appeal Criminal Appeal Rules*, 1993 (SI/93-53) (the "*Criminal Appeal Rules*").

[2] Rule 13 of the *Criminal Appeal Rules* provides:

- 13 (1) Where the appellant fails to
 - (a) diligently pursue his appeal, or
 - (b) comply with these Rules,the respondent may apply to the court or, on an appeal where leave is required, to a justice, for an order that the appeal be dismissed.
- (2) On an application under subrule (1) or a reference under subrule (3),
 - (a) the court may dismiss the appeal or make any other order it considers just; or
 - (b) where the appeal required leave and leave has not yet been granted, the court or a justice may dismiss the appeal or make any other order that the court or justice considers just.
- (3) Where the registrar considers that the appellant has failed to diligently pursue the appeal or has failed to comply with these Rules, he may refer the matter to the court or a justice.
- (4) Where the registrar makes a reference under subrule (3),
 - (a) he shall serve the appellant and respondent with at least two days' notice of the hearing of the reference; and
 - (b) the grounds in paragraphs 17(3)(a) and (b) for not requiring service on an unrepresented appellant apply.

[3] The appellant was convicted of sexual assault contrary to s. 271 of the *Criminal Code*, R.S.C. 1985, c. C-46 on April 8, 2025, in the Yukon Territorial Court. He filed a notice of appeal from his conviction ("NOA") on September 24, 2025. On September 10, 2025, he was sentenced to a two-year (less a day) Conditional Sentence Order, followed by one year of probation, and other ancillary orders. He did not appeal his sentence. He filed a timely appeal.

[4] On October 1, 2025, the Court of Appeal wrote to the appellant and the Crown regarding the filing deadlines for appeal materials and with respect to obtaining a hearing date for the appellant's appeal.

[5] The letter advised the appellant that, by October 22, 2025, he was required to file and serve proof that he had ordered the transcript. He was to file and serve the transcript and his appeal book by November 19, 2025, and his factum by December 19, 2025.

[6] The letter directed the appellant that, after filing his materials for the appeal, he was to immediately contact the registry to obtain a hearing date for the appeal. It advised the appellant that, if he did not file his factum on time, there would be a Compliance Hearing before the Registrar on a date to be determined and that if any of the deadlines were not met, the appeal may be referred to Case Management before a Justice or the Registrar.

[7] The Registry provided the appellant with the form of application should he seek to apply for a Court-appointed lawyer.

[8] On October 21, 2025, Yukon Legal Services Society (“YLSS”) wrote to the Registrar to advise that a merits assessment of the appellant’s appeal was still pending, and that the filing deadlines would need to be extended. Extensions were granted.

[9] The appellant did not file a transcript of the trial evidence by the extended deadline of November 24, 2025. To date, the appellant has not filed the transcript or served it on the Crown, nor has he filed an appeal book or factum.

[10] On December 4, 2025, the Crown’s office asked YLSS for an update on its merits assessment of the appellant’s appeal. On December 5, 2025, YLSS emailed the Crown to advise that, as it could not identify merit to the appellant’s appeal, YLSS would not provide him with a lawyer.

[11] On January 6, 2026, YLSS contacted the Court’s registry to advise that the merits assessment was complete, merit was not found, and YLSS would not provide the appellant with counsel.

[12] On January 12, 2026, YLSS contacted the Registrar of the Court to advise that the appellant had said he intended to retain private counsel to proceed with the appeal. Nothing further was heard.

[13] The appellant was served with this application. Neither the appellant, nor counsel on his behalf, have contacted the Registry, and the Registry has not received a notice of abandonment.

[14] The appellant has not appeared today.

[15] It is in the interests of the administration of justice that a person convicted of an offence pursue any intended appeal diligently. I am satisfied that the appellant has failed to diligently pursue his appeal. Pursuant to R. 13(1) of the *Criminal Appeal Rules*, I would dismiss the appellant's appeal of his conviction for want of prosecution.

[16] **GRIFFIN J.A.:** I agree.

[17] **MANOCCHIO J.A.:** I agree.

[18] **GRIFFIN J.A.:** The appeal from conviction is dismissed for want of prosecution.

“The Honourable Justice MacNaughton”