

# In the Court of Appeal for the Northwest Territories

**Citation:** *R v Kuptana*, 2018 NWTCA 9

**Date:** 2018 11 16

**Docket:** A-1-AP 2017 000 004

**Registry:** Yellowknife, N.W.T.

**Between:**

**Her Majesty the Queen**

Applicant

- and -

**Matthew James Kuptana**

Respondent

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**The Court:**

**The Honourable Mr. Justice Peter Costigan  
The Honourable Madam Justice Barbara Lea Veldhuis  
The Honourable Mr. Justice Thomas W. Wakeling**

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**Memorandum of Judgment  
Delivered from the Bench**

Application to Dismiss for Want of Prosecution

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## Memorandum of Judgment

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### Wakeling J.A. (for the Court):

[1] This sentence appeal is dismissed for want of prosecution.

[2] Rule 48 of the *Rules of the Court of Appeal for the Northwest Territories Respecting Civil Appeals*,<sup>1</sup> in force as of August 1, 2018, applies because there is not a comparable provision in the *Rules Respecting Criminal Appeals Under Sections 678-689 of the Criminal Code and Bail Rules on Appeals to the Court of Appeal for the Northwest Territories*.<sup>2</sup>

[3] Rule 48 states that “[a] panel of the Court may dismiss an appeal if it is satisfied that delay in advancing the appeal has resulted in significant prejudice to a party.”

[4] Since filing his notice of appeal more than nineteen months ago – on March 17, 2017 – the appellant has failed to diligently prosecute his appeal. He failed to appear in criminal chambers on June 4 and August 10, 2018 to address this matter.

[5] The Crown served its notice of motion on the appellant. He did not appear.

[6] We are satisfied that this delay constitutes a “significant prejudice” to the Crown.

[7] It has to devote resources to monitor the progress of this appeal. These are scarce resources and can be put to better use.

[8] The principle of finality dictates that sentence appeals be processed in a timely manner.<sup>3</sup> It has not been. The appellant has now served his sentence and this appeal is moot.

[9] This appeal is dismissed.

Application heard on October 23, 2018

Memorandum filed at Yellowknife, N.W.T.  
this                      day of November, 2018

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Wakeling J.A.

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<sup>1</sup> R-091-2018.

<sup>2</sup> SOR/78-68.

<sup>3</sup> *The Queen v. Nassar*, 2015 ABCA 324, ¶7 (“A delay of this magnitude constitutes a ‘significant prejudice to a party’. The principle of finality dictates that appeals be finally resolved in accordance with the *Alberta Rules of Court*”).

**Appearances:**

B. Green  
for the Applicant

Respondent, self-represented  
(no appearance)

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MEMORANDUM OF JUDGMENT

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