



Case in Brief: **R. v. Cope**

Judgment of October 9, 2026 | On appeal from the Nova Scotia Court of Appeal
Neutral citation: 2026 SCC 32

The Supreme Court of Canada says judges must consider the circumstances of both Indigenous offenders and victims when deciding a sentence.

This case is about how sentencing rules concerning Indigenous offenders and victims work together. The *Criminal Code* requires judges to pay particular attention to the circumstances of Indigenous offenders when considering alternatives to jail. It also requires judges when sentencing someone for intimate partner violence against an Indigenous woman or girl to consider her particular vulnerability and to give special importance to condemning the violence and discouraging similar conduct.

In this case, the offender is a Mi'kmaw man with severe mental health challenges. In June 2021, he attacked his intimate partner, a Mi'kmaw woman, on a sidewalk. He repeatedly punched her and threw her to the ground. She suffered serious injuries to her face and upper body. The offender pleaded guilty to aggravated assault.

The Provincial Court of Nova Scotia ordered an Indigenous Background Report, which provided information about the offender's personal history and the effects of colonialism and other systemic factors on his life. It also held a sentencing circle, a process in which members of the Indigenous community, as well as the offender, counsel and sentencing judge, come together to find an appropriate sentence. Members of the offender's community did not recommend further jail time and instead supported a more holistic approach, which included a treatment program. The sentencing judge found that the offender's Indigenous background, mental health challenges and addictions made him less responsible for his actions than he otherwise would have been. However, she also considered that the offence involved intimate partner violence against an Indigenous woman. She sentenced him to five years in prison.

A majority of the Court of Appeal reduced the sentence to three years. It found that the sentencing judge had not sufficiently considered the connection between the offender's mental illness, substance use and Indigenous background when deciding how responsible he was for the offence. It concluded that the five-year sentence was too severe in the circumstances. The Crown appealed to the Supreme Court of Canada.

The Supreme Court dismissed the appeal.

A three-step process applies in cases involving Indigenous offenders and victims.

Writing for a majority of judges, Justice O'Bonsawin explained that sentencing rules concerning Indigenous offenders and victims must be applied together. This involves three steps. First, a sentencing judge must consider the gravity of the offence and the degree of responsibility of the offender, given the Indigenous background of both the offender and victim. Second, the judge must identify what the sentence is meant to achieve. Finally, the judge must decide what sentence is fair in all the circumstances. Condemning and discouraging the violence do not always require a longer prison sentence. Those objectives can sometimes be achieved through other types of sentences.

In this case, the sentencing judge did not adequately consider how the offender's mental illness affected the degree of his responsibility or what type of sentence would be appropriate. She also did not give enough weight to the sentencing circle and its recommendations. For these reasons, the Court of Appeal's three-year sentence was maintained.

Breakdown of the decision: *Majority:* Justice [O'Bonsawin](#) dismissed the appeal (Justices [Karakatsanis](#), [Martin](#), [Kasirer](#) and [Moreau](#) agreed) | *Dissenting:* Justices [Rowe](#) and [Jamal](#) would have allowed the appeal (Chief Justice [Wagner](#) and Justice [Côté](#) agreed)

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