

CANADA / JUDGMENT

Coastal GasLink Pipeline Ltd. v. Huson

2023 BCSC 2601

COURT

Supreme Court of British Columbia

DECIDED

29 November 2023

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2023 BCSC 2601 Coastal GasLink Pipeline Ltd. v. Huson

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Coastal GasLink Pipeline Ltd. v. Huson,

2023 BCSC 2601

Date: 20231129

Docket: S1854871

Registry: Prince George

Between:

Coastal GasLink Pipeline Ltd.

Plaintiff

And

Freda Huson, Warner Naziel, John Doe, Jane Doe and all other persons unknown to the Plaintiff
occupying, obstructing, blocking,

physically impeding or delaying access, at or in the vicinity of the area

in and around the Morice River Bridge or the area accessed by

the Morice West Forest Service Road

Defendants

And

Attorney General of British Columbia

Intervenor

Before: The Honourable Justice M. Tammen

Oral Reasons for Judgment

(Re Sabina Dennis)

Counsel for the Plaintiff:

N. Rand

Counsel for the Intervenor:

P.G.R. Battin

K.E. Costain

Counsel for Sabina Dennis:

F. Mahon

Q.C. Candler

No other appearances

Place and Date of Trial:

Smithers, B.C.

October 30-31, 2023 and

November 1-3, 27, 2023

Place and Date of Judgment:

Smithers, B.C.

November 29, 2023

[1] THE COURT: The issue I must decide is a very narrow one. It can be distilled to this question: Has the Crown proved beyond a reasonable doubt that the accused, Sabina Dennis, engaged in public defiance of an injunction with the intent, knowledge, or recklessness as to the fact that the public disobedience would tend to depreciate the authority of the court? It is the last part, the final prong of the mental element for criminal contempt, which is central to this trial.

[2] Ms. Dennis faces an allegation of criminal contempt based on events which occurred on November 18, 2021. On that day, members of an RCMP unit known as the CIRG, Community Industry Response Group, took steps to clear a portion of the Morice West Forest Service Road to permit access to two work camps known as 9A and P2. A portion of the Morice FSR had been blocked by various obstructions since November 14, 2021.

- [3] The section of road at issue is within the area covered by an injunction made by Justice Church on December 31, 2019. For clarity, I will reproduce the portion of the injunction alleged to have been breached:
1. Until judgment is rendered after the trial of this Action, the Defendants and anyone having notice of this Order are restrained, enjoined and prohibited from:
 - (i) physically preventing, impeding, restricting or in any way physically interfering with, or counselling others to prevent, impede, restrict or physically interfere with, any person or vehicle travelling to or accessing the vicinity of the area in and around the Morice River Bridge . . .
 - (ii) physically preventing, impeding, restricting or in any way physically interfering with, or counselling others to prevent, impede, restrict or physically interfere with, the Plaintiff, its employees, agents, contractors or subcontractors carrying on its business in furtherance of the Plaintiff's Coastal GasLink pipeline project . . .
- [4] There were downed trees blocking the road at approximately Kilometre 39. Most importantly for present purposes, there was a blockade of the Lamprey Creek Bridge at Kilometre 44. That blockade consisted of the following:
- 1) an overturned vehicle on the eastern edge of the bridge deck; and
 - 2) a very large obstruction at the west end of the bridge deck, likely caused by an excavator which was immobilized there, sitting partly in a pit adjacent to a berm or mound of earth adjacent to the bridge. There was also another piece of heavy equipment immobilized next to the berm.
- [5] On November 18, 2021, approximately 75 CIRG members and several employees of the pipeline construction company gathered at Huckleberry Camp at Kilometre 27 and set out in a convoy to clear the road and potentially arrest individuals they encountered. Police also set up an access control point at Kilometre 27 to prevent people from entering the area while their operation was in progress.
- [6] The industry people using heavy equipment such as bulldozers cleared the road at Kilometre 39. The convoy then proceeded to within a kilometre of the Lamprey Bridge where they staged and planned their next steps.
- [7] Those steps included the arrest of multiple people on the bridge deck and several others a short distance to the west of the bridge. When the police first arrived, there were approximately a dozen people at the west end of the bridge, most standing on the berm on the north side, several standing on the south side. Among those present was the Accused, Sabina Dennis.
- [8] Also present were at least two videographers, including one said to be documenting events for a major media outlet. Many of the events which occurred before and after the arrests and the arrests themselves are captured on video taken by both police officers Kwok and Grant,

and by those among the group of arrestees. Exhibit 4 is a USB containing the Kwok and Grant videos. Exhibit 8 is a composite USB prepared by the defence, which contains simultaneous footage from multiple sources and different perspectives, including some footage taken from the west side of the bridge deck by those present on the berm.

- [9] Before attempting to summarize the salient parts of the video footage, I pause to make the following observations, all of which are relevant only as the general backdrop to this decision.
- [10] First, an obvious point. Whoever was responsible for cutting down the trees at Kilometre 39 and, even more importantly, creating the massive obstruction at Kilometre 44, the bridge site, engaged in very serious misconduct, which clearly breached the injunction and must have been calculated to do so. There is no evidence that Ms. Dennis was in any way responsible for those events.
- [11] Second, I note that the perspective of the police, as stated by Inspector Floyd, one of the commanding officers, was that once police encountered people on the berm, the time for negotiation or permitting peaceful departure had passed and arrests were inevitable. In short, police decided not to read the terms of the injunction to those blocking the road and permit them to leave, arresting only those who did not do so. It is not uncommon for police enforcing an injunction to provide an opportunity for protestors to leave the area after being told in clear terms that they are violating a court order. However, there is no legal requirement to proceed in that fashion. The risk police take in proceeding straight to arrest is that some of the arrestees may not have known of the terms of the injunction and will be unable to be successfully prosecuted.
- [12] A corollary observation is that several of those present and arrested on November 18, 2021 have acknowledged their prior knowledge of the terms of the injunction and have pleaded guilty and been sentenced by me. In pleading guilty, they have also admitted the other essential elements of criminal contempt.
- [13] Third, I note that there appears to have been some flexibility shown by police in enforcement of the injunction, including willingness to negotiate, in the months between December 2019 and November 2021. There was little evidence led on this issue, but I did hear about a separate RCMP unit called the Divisional Liaison Team (or DLT), which engages in negotiation with a view to resolving conflicts without the need to arrest. The CIRG contains a DLT element, and at least one DLT member was present on November 18, 2021.
- [14] Also present among the police contingent were two canine units and several ERT members. The ERT officers were dressed in olive drab camouflage uniforms and carried long-barrelled weapons. To the untrained eye, they look very much like military personnel.

- [15] Finally, I observe that, as compelling as video evidence can appear to be, it inevitably captures mere moments in time and is incapable of revealing broader context to events, much less shedding light on what the individuals depicted were thinking at the time. That is certainly the case here.
- [16] There is no evidence, other than that of Ms. Dennis, about what occurred among the group on the berm prior to the police arrival. I also have only her evidence about what was in her mind at the relevant time. My assessment of her testimony will thus be crucial to the outcome of this trial.
- [17] The video footage shows Inspector Floyd walking onto the bridge deck and reading from a script, which he was holding in his hand. That script refers to the injunction and concludes with a statement that those present by blockading the roadway are breaching the injunction and are under arrest for civil contempt.
- [18] As Inspector Floyd is reading the script, Ms. Dennis speaks over him and says, in part, that the paper has no power, it is an evil spell which has no power or authority. Ms. Dennis had also been speaking in a raised voice prior to Inspector Floyd reading the injunction.
- [19] There is a time lag of several minutes between the words of arrest and the subsequent actions of the CIRG. Ms. Dennis can be heard speaking during much of that interval. Although I disagree with the Crown description of Ms. Dennis "heckling" the police, it is clear that neither the tone nor content of her speech could be described as conciliatory. A more apt descriptor might be moderately confrontational. She was defiant, telling the police that they had no power and that authority is not power. Ms. Dennis also referred to the service of an eviction notice and said the police were violating the law.
- [20] After several minutes, Ms. Dennis walks to the middle of the bridge and further addresses the police. Her tone is then modulated and the content of her speech somewhat different. Ms. Dennis welcomes the police onto the territory and performs a partial ritual with tobacco as part of that welcome. She and those behind her sing a song of peace, referred to as the White Pines song.
- [21] Ms. Dennis concludes by stating that they are unarmed and peaceful, but powerful and "We don't fear you".
- [22] It is noteworthy that as Ms. Dennis speaks of peace and welcome, the majority of the CIRG members had fallen back a distance of probably 30 metres and most had their backs turned to the bridge. They were mustering prior to deployment for arrest.
- [23] The only police members looking at Ms. Dennis were two of the military-looking ERT members standing on either side of the bridge, rifles pointing down. As the peace song concludes, several police officers can be seen approaching the bridge, led by handful of ERT members and two canine units. The large body of CIRG members, what would become the arrest team, can be seen gathering behind them. There is a convoy of vehicles stretching around a bend in the road. In short, what was clearly visible to Ms. Dennis was a significant,

heavily-armed, and tactically-diverse military-looking police unit about to engage in enforcement tactics.

- [24] I will not summarize what is on the second composite video, the arrest and post-arrest events. I have viewed and considered it and may refer to portions relied on by counsel in final submissions. However, in my view, that video is less significant than the previous one to the issues I must decide. By that time, Ms. Dennis had either committed criminal contempt or she had not. Her behaviour during the arrest is of secondary importance.
- [25] If the foregoing were the only evidence in this case, a conviction for criminal contempt would be inevitable. Based on the behaviour and statements of Ms. Dennis seen on the video footage, an inference would be readily drawn that she intended to breach the injunction in a public way and was at least reckless as to the fact of that conduct tending to depreciate the authority of the court. However, Ms. Dennis testified. She explained her prior interactions with police, her reason for attending to that area of the Morice Forest Service Road a few days prior to November 18, and importantly what she intended by her actions on November 18, 2021.
- [26] Ms. Dennis is Dakelh, also known as Carrier Sekani. Her matrilineal clan is the Luksilyoo and her father clan is the Lhts'amusyoo. Through her great-grandfather, Ms. Dennis has blood ties to the Wet'suwet'en Nation and also has blood ties to all the Dakelh and Wet'suwet'en villages in Carrier Sekani territory.
- [27] Ms. Dennis attended meetings about the proposed pipeline project when CGL first came to the area over a decade ago. In 2011, Ms. Dennis met with Freda Huson and learned of her concerns about the pipeline project. Ms. Dennis attended the first injunction proceedings in which Ms. Huson was involved in 2018. In 2019, after the interim injunction was made, Ms. Huson asked Ms. Dennis to come to the Wet'suwet'en Territory, the Yintah, to bear witness to any enforcement actions. Ms. Dennis agreed.
- [28] Ms. Dennis was present for one instance of RCMP enforcement of the interim injunction on January 7, 2019. The police gave all those present an opportunity to leave peacefully, which Ms. Dennis did without being arrested.
- [29] The interlocutory injunction, which is at issue in this case, was made December 31, 2019.
- [30] Ms. Dennis described several instances of interaction with police in connection with that injunction. In February 2020, Ms. Dennis was part of a group that was arrested for allegedly breaching the injunction at a camp near Kilometre 39 of the Morice FSR. Ms. Dennis said she was living at the camp at the time, and it was outside the area covered by the injunction. Ms. Dennis was in police custody for several hours, then released without charge and no contempt proceedings were initiated.

- [31] In the spring of 2021, Ms. Dennis was invited to the Yintah to perform a ceremony near Kilometre 63 of the Morice FSR. RCMP arrived during the ceremony, but after some discourse with Ms. Dennis, they permitted the ceremony to complete.
- [32] On October 27, 2021, Ms. Dennis was part of a group that was at a temporary camp near a roadway used to access a CGL camp. The group was under the direction of two hereditary chiefs, one being Adam Gagnon, also called Chief Dtsa'hyl. Chief Dtsa'hyl was arrested, leaving the group without a leader. The RCMP attended to clear the road and dismantle the camp. The ranking officer was Inspector Floyd. Ms. Dennis engaged in a negotiation with Inspector Floyd which led to a peaceful resolution of the situation. At the conclusion of their interaction, Inspector Floyd said to Ms. Dennis, "We may need you to help us negotiate our way out of here."
- [33] Inspector Floyd in his testimony said he was referring to needing assistance that night only. I accept that evidence. However, Ms. Dennis testified that she interpreted his words as an invitation to be involved in negotiations with the RCMP on a future occasion. I accept that hers was an honest misunderstanding of the words spoken by Inspector Floyd.
- [34] On November 15, 2021, Ms. Dennis learned from her sister that the two of them were invited to a meeting by a hereditary chief, which was to occur on the Yintah. Ms. Dennis and her sister drove as far as Kilometre 39 of the Morice FSR where their path was blocked by downed trees. One of the Wet'suwet'en hereditary chiefs, Lillian Wilson, met them there and Ms. Wilson and Ms. Dennis decided that the latter should walk to the Gidimt'en camp to check on the well-being of people there. Ms. Dennis travelled to that camp, near Kilometre 44, on foot.
- [35] Ms. Dennis said she crossed the Lamprey Bridge on foot and could not recall if obstructions were present. She said her memory on that point was not good because she had since seen so much video footage depicting the obstructions.
- [36] Ms. Dennis remained at the camp for the next several days. She said what was occurring there was normal camp life. Among those present was an elder known as Auntie Janet. Auntie Janet was very protective of the younger members of the group and Ms. Dennis, in turn, felt protective toward Auntie Janet as well as others.
- [37] On November 18, Ms. Dennis said she went onto the berm when she learned of the large convoy of police coming up the road. She saw the officers in green uniforms positioning themselves and thought there was imminent danger. Ms. Dennis testified that at all times she was attempting to negotiate a peaceful resolution to the situation with the police. She recognized Inspector Floyd and recalled that he had invited her to negotiate in the past, which she had been able to do.
- [38] Ms. Dennis said she tried to make eye contact with Inspector Floyd, but he would not meet her gaze. She later tried to make eye contact with other officers without success. Only the ERT officers would look her in the eye.

- [39] Ms. Dennis said she was very fearful of the police presence, particularly the men in green military-style uniforms and the canine units. She did not view flight as an option.
- [40] Ms. Dennis said that when she referred to an eviction notice, it was one which she learned had been served on CGL by hereditary chiefs in January 2020. She said she was not referring to service of an eviction notice much more recently, allegedly by Molly Wickham. I pause to note that there is no admissible evidence that such notice was served in November 2021, only vague hearsay evidence. Ms. Dennis's evidence about her knowledge of it was also vague.
- [41] Ms. Dennis said that when she referred to Inspector Floyd's paper having no power, she was referring to the script from which he was reading. She felt as if he was using that paper as an excuse to set the troops upon her group.
- [42] Ms. Dennis said several times in her testimony that she was attempting to negotiate a peaceful resolution to the situation, and she was not intending to breach the injunction. She believed, from her past experiences, that the police would negotiate and also might provide them with an opportunity to leave peacefully without arrest.
- [43] Ms. Dennis said among her group were several legal observers, who had told her they did not intend to breach the injunction and wished to be permitted to leave peacefully. Ms. Dennis said she felt like she could have negotiated that result with the officers if given the opportunity.
- [44] Ms. Dennis said she made the decision to go onto the bridge deck because of the level of force she feared might be coming at them. She was still trying to negotiate a peaceful resolution. Ms. Dennis said she felt a great threat to her group and was worried about the force of the ERT members and canine units being unleashed on them. She therefore made the very difficult decision to go onto the bridge to attempt to prevent that from occurring. As she walked onto the bridge, she had her hands up above her shoulders.
- [45] Ms. Dennis described her non-resistance when being arrested and her efforts to ensure that others were not injured during the arrest. She also advised one of the arrestees not to resist. Those things are audible on the video footage.
- [46] One thing which is not captured is Ms. Dennis's request to speak with a DLT member. Ms. Dennis said she made such a request, as did Auntie Janet. Inspector Floyd could not initially recall such requests, but he did confirm the notes taken by a scribe show that he reported to his immediate supervisor that some arrestees were requesting DLT. Inspector Floyd conceded that the notes likely accurately reflected events that occurred that day.
- [47] As noted earlier, the only live issue in this trial is whether the Crown has proved to the criminal standard that Ms. Dennis intended to commit criminal contempt by her actions on November 18, 2021.

[48] There are four essential elements to criminal contempt. The first three are identical to the elements of civil contempt, namely:

- 1) the existence of a court order that clearly and unequivocally states what should and should not be done;
- 2) actual knowledge of the court order by the alleged contemnor; and
- 3) the intentional commission of an act that the order prohibits or intentional omission of an act that the order compels.

Carey v. Laiken, 2015 SCC 17 at paras. 32-35.

[49] Criminal contempt has the additional element of public defiance of the court's process in a way calculated to lessen societal respect for the courts. It thus requires proof that the alleged contemnor defied or disobeyed a court order in a public way with intent, knowledge, or recklessness as to the fact that the public disobedience would tend to depreciate the authority of the court: *United Nurses of Alberta v. Alberta (Attorney General)*, [1992] 1 S.C.R. 901, 1992 CanLII 99, paras. 21-25.

[50] In the recent decision of *Trans Mountain Pipeline ULC v. Mivasair (Re Leyden)*, 2023 BCCA 299, Justice DeWitt-Van Oosten considered the contours of a potential defence based on lack of intent. In that case, the accused testified that he was present with protestors at a blockade to "keep the peace" and to perform a pipe ceremony. He believed, based on past experiences with police, that he had permission to perform such a ceremony. Justice DeWitt-Van Oosten said this about the mental element of criminal contempt at paras. 66-68:

[66] In most cases, once the Crown has proved that an accused intentionally committed an act in public that contravenes a clear order of which they had notice, that same evidence will strongly support an inference that the accused committed the act with the intent, knowledge, or, at the very least, recklessness as to the fact that their public disobedience would tend to depreciate the court's authority. This much was made clear in *United Nurses* (at 933):

[67] However, the inference of intent, knowledge or recklessness is not mandatory. It is permissive: *United Nurses* at 933. Consequently, there may also be cases in which the circumstances surrounding the particular conduct of the accused, including evidence about their state of mind at the material time, "leave a reasonable doubt as to whether the breach was or should be expected [by the accused] to have this public quality": *United Nurses* at 933. In the latter scenario, the Crown will not have proved the mens rea for criminal contempt, even though the contravention of the court order occurred in public view: *United Nurses* at 933.

[68] Mens rea is assessed case-by-case and in the context of the entirety of the evidence. It is an obligatory individualized inquiry.

- [51] With respect to Mr. Leyden's case, Justice DeWitt-Van Oosten concluded as follows at para. 88:
- [88] Mr. Leyden's testimony about what he was doing and why was relevant to the mens rea determination. (The Crown concedes this point, even if this same evidence was insufficient to establish officially induced error.) Moreover, the evidence was not contested. If the trial judge accepted that Mr. Leyden believed his conduct did not contravene the injunction because he had previously been told by police that he was permitted to conduct a pipe ceremony, it was open to him to argue that joining the protesters in the crosswalk was not "calculated to lessen societal respect for the courts": *United Nurses* at 931. In other words, he could argue that he did not intend or know that his public non-compliance with the terms of the injunction (as opposed to the violative conduct of other individuals in the crosswalk), constituted an expression of defiance that would tend to lower the court's authority. Nor was he reckless in that regard because of how he viewed his own conduct, in light of what he had been told. Recklessness, within the criminal law context, requires proof of "knowledge of a danger or risk and persistence in a course of conduct which creates a risk that the prohibited result will occur": *Sansregret v. The Queen*, [1985] 1 S.C.R. 570 (S.C.C.) at 584, 1985 CanLII 79.
- [52] In this case, the defence concedes that the Crown has proved the first three elements of criminal contempt. Ms. Dennis submits that Crown has not proved the mental element. In written submissions, counsel for Ms. Dennis puts it this way at paragraph 2:
2. The Crown has not proven beyond a reasonable doubt that Ms. Dennis engaged in public defiance or disobedience, with the intent, knowledge, or recklessness as to the fact that the public disobedience would tend to depreciate the court's authority. Rather, she saw great risk to herself and other land defenders when the police approached, and in an act of self-preservation and desire to protect others, tried to bring about a peaceful resolution to the conflict. Her actions, including engaging in ceremony and welcoming the police onto the Yintah, raise a reasonable doubt about her intentions on November 18, 2021. This Court should conclude she is not guilty of criminal contempt.
- [53] The force of that submission requires that I either accept Ms. Dennis' evidence or at least that I am left in a state of reasonable doubt by it.
- [54] Crown counsel submits that they have proved the case beyond a reasonable doubt. In part, that submission is based on the Crown urging me to find that Ms. Dennis was not a credible witness. The Crown's written submissions include the following in the overview section, at para. 2:
2. Contrary to her testimony, her conduct at the Lamprey Creek bridge was not conciliatory: it was confrontational and sought to undermine the authority of the court by publicly acting contrary to the injunction.

And at para. 5:

5. Sabina Dennis' testimony about what her actions really meant on November 18, 2021, is not credible. When this Court examines the totality of the independent evidence, including necessary reasonable inferences into Ms. Dennis' words and actions, it is clear Ms. Dennis was seeking to undermine the authority of this Court. At the very least, she was reckless as to the impact her words and actions would have on this Court's authority.
- [55] Thus, the real crux of the matter, that on which this decision turns, is my assessment of Ms. Dennis's credibility.
- [56] Assessing credibility is one of the most difficult tasks of trial judges. There is no formula to apply to determine if a witness is telling the truth. Judges are not human lie detectors, nor are we blessed with the ability to divine what is in the heart or mind of a witness.
- [57] Many of the tools commonly used to measure credibility are fraught with difficulty. Among those thought to be least reliable is witness demeanour. A lying witness can sometimes put on a good performance in the witness stand. On the other hand, a witness may appear unsure or nervous for many reasons, some of which have no relationship to their veracity.
- [58] Recognizing the limitations of the assessment exercise, I say this: I watched Ms. Dennis intently for almost two days of testimony and paid extremely careful attention to her evidence and the manner in which she delivered it. Ms. Dennis stood throughout most of her testimony and consistently made eye contact while testifying. She impressed me as a witness. I tend to believe the salient parts of her testimony. I do not agree that there was anything inherently implausible in her account, nor did I find her to be evasive on cross-examination. Her answers to some questions were lengthier than counsel was expecting, but they were generally responsive.
- [59] It may be that Ms. Dennis was not telling the truth and she has deceived me. Only she can know if that is so. As I previously stated, judges are not possessed of any special truth-detection powers. However, using the tools of assessment available to me, I believe the important parts of Ms. Dennis's evidence. I certainly do not reject her evidence outright and, at a minimum, it leaves me in a state of reasonable doubt about one of the essential elements of criminal contempt.
- [60] I agree with the Crown that some of Ms. Dennis' evidence about her intentions at the times depicted on video seems inconsistent with how she appears on the video and the words she utters. Indeed, it is difficult to reconcile the Sabina Dennis one sees on the video with the one I perceived on the witness stand. I would describe Ms. Dennis qua witness as softspoken, articulate, thoughtful, respectful, and sincere. I accept Ms. Dennis's evidence that she was, despite outward appearances, frightened as she stood on the berm on November 18, 2021 and as she decided to step onto the bridge.
- [61] I believe her when she says, and here I am interpreting her actual testimony, that in essence she summoned all the courage she could muster when she went onto the bridge in an effort to prevent force being used against those standing on the berm.

- [62] I view with some scepticism Ms. Dennis's evidence that she was trying to make eye contact with Inspector Floyd when he walked onto the bridge and read his arrest script. Indeed, it would have been impossible for Ms. Dennis to have initiated meaningful dialogue with him then since she talked over him.
- [63] However, I believe that shortly after that, Ms. Dennis attempted to engage in peaceful negotiation, with which she had enjoyed success on prior occasions.
- [64] The composite video captures two vantage points of the time when Ms. Dennis is speaking on the bridge and the CIRG members are mustering some distance away. The close-up shot of Ms. Dennis's face is consistent with her evidence that she was attempting to make eye contact with the police. The wider-frame shot from behind her shows that the only officers with whom she could have then made eye contact were the ERT sentries flanking the bridge entrance.
- [65] Crown counsel submits that by that juncture, the offence was complete and any effort by Ms. Dennis was meaningless. Although that may be factually so, I consider that clear attempt at conciliation in the context of her other evidence about her motivation and intention throughout the events of November 18.
- [66] I accept that Ms. Dennis was initially motivated by a desire to protect those at camp and to ensure that any interaction with police was peaceful. She believed, based on prior interactions with police, including her conversation with Inspector Floyd on October 27, 2021, that the police were willing to work with her to negotiate peaceful resolution to potentially volatile situations related to the enforcement of the injunction.
- [67] Ms. Dennis did not view her conduct as an expression of defiance of the court's authority, nor was she reckless as to the fact that her conduct might bring about a prohibited result, namely the depreciation of the court's authority.
- [68] I accept that Ms. Dennis expected that there would be an opportunity for her to negotiate, at a minimum, the safe departure of those she called legal observers and potentially others. I accept her evidence that throughout the events of November 18, 2021, she was motivated by a desire to protect those on the berm and to reach a peaceful resolution with the police who arrived at the site with a significant show of force. She did not perceive a risk that her conduct would depreciate the authority of the court, and thus cannot be found to be reckless as that concept is legally understood.
- [69] In light of those findings, the Crown has not proved the mental element of criminal contempt. I find the accused Sabina Dennis not guilty.

"Tammen J."

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