

CANADA / JUDGMENT

Coastal Gaslink Pipeline Ltd. v. Huson

2025 BCSC 2348

COURT

Supreme Court of British Columbia

DECIDED

17 October 2025

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2025 BCSC 2348 Coastal Gaslink Pipeline Ltd. v. Huson

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Coastal Gaslink Pipeline Ltd. v. Huson,

2025 BCSC 2348

Date: 20251017

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 Tammen

Oral Reasons for Sentence

Re Sleydo' Molly Wickham, Shaylynn Sampson, and Corey Jocko

Counsel for the Plaintiff:

Niall Rand

Counsel for the Intervenor:

P.G.R. Battin

K.E. Costain

M.W. Dull

Counsel for the Contemnors Sleydo' Molly Wickham, Shaylynn Sampson, and Corey Jocko:

F. Mahon

Q.C. Candler

No other appearances

Place and Date of Hearing:

Smithers, B.C.

October 15-16, 2025

Place and Date of Judgment:

Smithers, B.C.

October 17, 2025

- [1] THE COURT: In the interests of clarity, I will announce the result and then explain my reasons for reaching my conclusions. For Sleydo' Molly Wickham, the net sentence is 17 days' imprisonment; for Corey Jocko, the net sentence is 12 days' imprisonment; for Shaylynn Sampson, the net sentence is nine days' imprisonment.
- [2] However, those terms of imprisonment are suspended and will only be served if there are further breaches of the injunction or the recognizance I impose within the next year. Each of the three accused will be bound by a recognizance for a period of one year, the terms of which I will outline at the conclusion of these reasons.
- [3] The primary operative term, which is meant to be both punitive and restorative, will be that each accused shall complete 150 hours of community work service to the satisfaction of a probation officer. What follows are my reasons for sentence.

- [4] The history of these proceedings is set out in two previous judgments I rendered. On January 12, 2024, I convicted each of these three accused of one count of criminal contempt of court in relation to their breach of an injunction on November 19, 2021. All three accused brought an abuse of process motion seeking a judicial stay of proceedings based on police misconduct during the enforcement of the injunction.
- [5] On February 18, 2025, I declined to grant the primary relief sought by the accused, a judicial stay of proceedings. However, having found two breaches of their Charter-protected rights, I determined that the appropriate remedy would be a reduction in sentence.
- [6] I pause here to note that these reasons, if transcribed, should be read in conjunction with my reasons for conviction January 12, 2024, and decision on the abuse of process motion, February 18, 2025. Those decisions provide the full context of both the underlying offending behaviour and the Charter breaches which occurred during the enforcement operations by police.
- [7] In short, each of these three accused deliberately housed themselves in structures which were placed very near a drill-pad site, in direct and open defiance of the clearly-worded terms of the injunction. I found two Charter breaches by police: (1) police breached the s. 8 and 9 rights of the accused by failing to obtain a Feeney warrant permitting entry into a dwelling-house to effect arrests; (2) there was a s. 7 breach, an abuse of process in the residual category occasioned by comments made about Sleydo' and Ms. Sampson by two sets of police officers which were captured on audiotape. The comments at issue were related to red face paint, the handprint symbol associated with missing and murdered Indigenous women, girls, and two-spirit individuals, which Sleydo' and Ms. Sampson had on their cheeks. The officers commented on the face paint and compared Sleydo' and Ms. Sampson to Orcs, monsters created from mud in the fantasy movies based on Tolkien's Lord of the Rings. I found those comments to be grossly offensive, racist, and dehumanizing.
- [8] The other discrete matter I said I would take into account on sentencing was the conditions of confinement, including extensive time spent in transport vehicles, during the period from November 19 to November 22, 2021.
- [9] Both counsel have provided me with extremely thorough and helpful submissions, both written and oral.
- [10] The Crown submits that fit sentences for these accused are as follows: for Sleydo', 30 days' jail; for Corey Jocko, 25 days' jail; for Shaylynn Sampson, 20 days' jail. Crown submits that I should make a modest deduction as a s. 24(1) remedy, between two and five days, primarily based on the warrantless entry. Finally, Crown says I should take into account time spent in custody and grant credit at 1.5 to one, resulting in a deduction of eight days for Sleydo' and Mr. Jocko, six days for Ms. Sampson.

- [11] Defence counsel submits that on consideration of the many unique features of this case, taking into account all of the aforementioned considerations, a fit net sentence for each accused is either time served or a modest term of imprisonment to be served in the community pursuant to a conditional sentence order.
- [12] I will not here detail the background of the three accused. Their personal histories are comprehensively set out in the very thorough Gladue reports which I have read and considered. I have also read the many character reference letters filed on their behalf.
- [13] In very brief compass, Sleydo' is a wing chief of Cas Yikh, a house group within the Gidimt'en Clan of the Wet'suwet'en Nation. She became a wing chief in 2019. She is 44 years old, a mother of three young children. She has considerable post-secondary education, including a master's degree in Indigenous governance. Sleydo' lives and raises her children on the Yintah and is deeply committed to its preservation.
- [14] Shaylynn Sampson is a 26-year-old Gitxsan woman who lives in the Hagwilget Village First Nation. She studied political science at the University of Victoria before returning to her traditional territory and has since committed herself to learning about and preserving the shared history and cultural traditions of the Gitxsan and Wet'suwet'en Nations. Ms. Sampson views Sleydo' as a mentor.
- [15] Corey Jocko is a 39-year-old Mohawk man, a member of the Akwesasne Nation in Akwesasne, Ontario. He came to British Columbia in September 2021 to be part of what was occurring on the Yintah at that time. He has since returned to Akwesasne to live with and care for his ailing mother. Mr. Jocko is an accomplished artist and musician. Unlike Sleydo' and Ms. Sampson, Mr. Jocko has a criminal record, but it is unrelated and dated.
- [16] The principles of sentencing with respect to criminal contempt are well known and beyond any debate. Both counsel concede that general deterrence, specific deterrence, and denunciation are paramount considerations.
- [17] Criminal contempt undermines the authority of the court and threatens the rule of law. The harm caused by criminal contempt is the deterioration of societal respect of the courts and the judicial system's authority.
- [18] The court's jurisdiction to impose a sentence for criminal contempt is inherent and is part of the court's common law jurisdiction, as opposed to being part of the Criminal Code, R.S.C. 1985, c. C-46. The ability to punish for the offence of contempt is preserved in s. 9 of the Criminal Code. Although the Criminal Code provisions do not strictly apply to sentencing for criminal contempt, the principles set out in ss. 718, 718.1, and 718.2 of the Criminal Code provide a useful backdrop and guidance in determining an appropriate sentence for criminal contempt.

- [19] The primary sentencing objectives in criminal contempt cases are denunciation and deterrence. Those remain the primary objectives because of the need to preserve the rule of law and deter both the individual contemnors and the wider public from similar actions.
- [20] Sentencing for criminal contempt, as with all other offences, remains a highly-individualized exercise. A fit sentence must always be, as much as possible, tailored to the specific circumstances of the offender and offending behaviour.
- [21] What then is a fit sentence for these three accused?
- [22] With respect to calculation of sentence, with one exception, I largely agree with the Crown's submission. I therefore determine that fit sentences for each accused are as follows: for Sleydo', 30 days' imprisonment; for Corey Jocko, 25 days' imprisonment; for Shaylynn Sampson, 20 days' imprisonment.
- [23] I also agree with the Crown that there should be a comparatively modest deduction, what will amount to somewhere between 10 and 15 percent, as a s. 24(1) remedy based on the unlawful entry by police. I will thus deduct three days from the sentence for each accused.
- [24] I also accede to the Crown's submission that this three-day deduction is in recognition of the Feeney breach only. I will consider the s. 7 breach as part of my broader consideration of the appropriate global disposition in this case.
- [25] With respect to credit for time already spent in custody, I do not agree with the Crown's submission. Because this is sentencing for a common law offence, I do not consider myself constrained by s. 719(3.1) of the Criminal Code. I will grant credit at a rate of two to one, resulting in a 10-day deduction for Sleydo' and Mr. Jocko, and an eight-day deduction for Ms. Sampson.
- [26] The reason I do so is this: all three accused, from November 19 to November 22, were subject to the harshest possible conditions of confinement in a series of holding cells at RCMP detachments with hours of arduous transport in vans and irregular meals, and no amenities of any sort.
- [27] Once those deductions are made, the sentence remaining for each accused is as follows: for Sleydo', 17 days' imprisonment; for Corey Jocko, 12 days' imprisonment; for Shaylynn Sampson, nine days' imprisonment.
- [28] As I noted at the outset, I have determined that those sentences should be suspended.
- [29] There are several reasons that, in my view, it is appropriate to suspend the implementation of the additional term of imprisonment which I have found to be a fit sentence for each of these three accused. First and foremost, all the goals of sentencing can be achieved by such a sentence. Imprisonment of any duration, even a single day, is the most severe form of punishment, and one which is imposed only after considering all other potential sanctions. All jail sentences are denunciatory.

- [30] The fact that short jail sentences are imposed on first offenders in criminal contempt cases is itself a recognition of the seriousness of the offending behaviour and its attendant threat to the rule of law and overall fabric of a free and democratic society.
- [31] For the vast majority of offenders or would-be contemnors, a short, sharp sentence suffices. The prospect of going to jail, even if only for a few days, deters many from breaching court orders. Actual time in jail, again even if for an extremely short time, brings home to most offenders the seriousness of the conduct and serves the aim of specific deterrence.
- [32] Fixing an appropriate term of imprisonment and then suspending its implementation is a common law sentence available in contempt cases: see, for example, *Law Society of British Columbia v. Bryfogle*, 2015 BCSC 1339. This type of suspended sentence is distinct from that envisaged by Criminal Code ss. 731 and 732.2(5). Historically, this type of suspended sentence was akin to a form of judicial clemency. In this case, it is appropriate to extend such judicial clemency, in part based on the need to foster reconciliation with Indigenous peoples.
- [33] One of the goals of sentencing for criminal contempt is to preserve respect for the authority of the courts. Such respect is, in my view, more readily preserved if the courts, in appropriate cases with unusual features such as those here, are willing to exercise restraint, what was once referred to as mercy.
- [34] It is beyond doubt that both the courts and the RCMP have a role to play in reconciliation. Where, as here, the police are enforcing an order of this court and some of those doing the enforcement engage in serious misconduct, such as the comments about the red face paint of Sleydo' and Ms. Sampson, the court should take tangible steps to attempt to restore respect for the justice system. The need to take action is acute when the offending behaviour by state actors is racist commentary making light of the plight of the many murdered and missing Indigenous women and girls and the movement which has attempted to shed light on their stories.
- [35] I am also mindful of the fact that the dark shadow of the legacy of colonization looms large in the broader backdrop to this case. The territory on which these offences occurred is part of the unceded Wet'suwet'en lands or Yintah over which the Wet'suwet'en sought a declaration of Aboriginal title in the case of *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010.
- [36] The Supreme Court of Canada remitted the claims to the trial court and encouraged the parties to reach a resolution through negotiation. In the intervening 28 years, there has been no resolution.
- [37] A fundamental issue which appears to be unresolved is a recognition by both levels of government of the hereditary chiefs as the appropriate individuals to speak on behalf of the Wet'suwet'en, as opposed to the band councils. It is worth noting in that regard that the hereditary chiefs of the various houses of the Wet'suwet'en and Gitxsan were the plaintiffs in

the Delgamuukw case and are listed as appellants in the Supreme Court of Canada in Appendix A of the judgment. Band councils are, of course, a construct of the now extremely dated Indian Act, R.S.C. 1985, c. I-5.

- [38] In this case, some of the Wet'suwet'en hereditary chiefs maintain that they were not consulted appropriately with respect to the project. That has been a source of much discordance for many years. In February 2020, after the first enforcement actions related to the injunction, there were widespread protests in other parts of this province which then spread across the country and became known as the "Shut Down Canada" movement.
- [39] Those protests led directly to a series of meetings among the Wet'suwet'en hereditary chiefs and representatives of both the Federal and Provincial Governments. Those meetings, in turn, led to the creation of a memorandum of understanding agreed on February 29, 2020, and signed on May 14, 2020 (the "MOU"). The signing of that MOU apparently led to a cessation of protest activities. There can be little doubt that the MOU is, at its core, an agreement to negotiate and a framework for same. However, under the heading, "Immediate", both the Provincial and Federal Governments committed to the following:
- 1) Canada and BC recognize that Wet'suwet'en rights and title are held by Wet'suwet'en houses under their system of governance;
 - 2) Canada and BC recognize Wet'suwet'en Aboriginal rights and title throughout the Yintah;
 - 3) Canada, BC, and the Wet'suwet'en commit to the negotiations described below, commencing immediately;
 - 4) BC commits to engage in these negotiations consistent with the declaration on the Rights of Indigenous Peoples Act;
 - 5) Canada and BC will provide the necessary resources to Wet'suwet'en for these negotiations; and
 - 6) the parties agree these negotiations are to be intensively mediated by an agreed-upon mediator.
- [40] Thus, the honour of the Crown was squarely engaged. Equally clearly, both governments recognized the hereditary chiefs of the individual houses as the rights and title holders and, importantly, appear to have recognized Wet'suwet'en rights and title over the Yintah. I heard no evidence in this trial as to why the further "intensively mediated" negotiations did not take place. However, in the earlier proceedings involved Chief Dsta'hyl, I heard some evidence in that regard. What is clear is that the MOU has not been meaningfully implemented in the more than five years since its execution.

- [41] I cannot comment on the matter further based on the evidentiary record before me, nor would it be appropriate for me to do so. However, I can and do consider the signing of the MOU and subsequent failure to meaningfully implement it on the part of both the Federal and Provincial Governments, as part of the backdrop to the offending behaviour here.
- [42] Ms. Mahon puts it this way at paragraph 78 of written submissions:
78. The events of November 2021 are the direct result of this history. The three individuals before the Court are not arguing that any "self-help" measures taken because of this history excuse them from conviction. They have already been convicted. Rather, this history must be taken into account in the sentence matrix: this is an integral component of why they have come before the Court. Colonization created the problem the Wet'suwet'en Nation faces to this day in its constant struggle to have the Canadian government affirm their title in a meaningful and lasting way. These are the constrained circumstances that informed the actions of the three offenders. Their moral blameworthiness must be assessed in this context.
- [43] I agree with that submission.
- [44] Obviously the historical backdrop, including events surrounding the MOU, which I have just outlined in extremely brief compass, cannot excuse the deliberately defiant and unlawful conduct of these three accused, nor does it diminish the seriousness of the conduct. Nonetheless, I do consider it as an extremely unique circumstance which should be considered when I assess the moral blameworthiness of the accused.
- [45] I also consider the broader concept of reconciliation as being a relevant consideration in these unique circumstances. If, by suspending the implementation of the remaining jail sentence in this case, I can advance the goal of reconciliation with Indigenous peoples, even infinitesimally, I should seriously consider it. By doing so, I hope to foster respect for the common law courts of Canada.
- [46] In my view, right thinking members of society would not view the sentence I have imposed as unduly lenient. Nor, in my view, does this sentence risk erosion of respect for the courts or the rule of law more broadly.
- [47] I have sentenced the accused to a term of imprisonment, but suspended the implementation of part of that sentence.
- [48] I also intend to place each of the accused on a recognizance for a period of one year, during which time they shall perform 150 hours of community work service. That, too, is a significant sentence.
- [49] The other terms of the recognizance will be that they keep the peace and be of good behaviour, and appear before the court if required to do so. If there are no further breaches of the injunction, nor any breaches of the terms of the recognizance, then the further period of imprisonment will not be served by any of these accused.

- [50] That concludes my formal reasons for sentence. I will need to hear further from counsel with respect to the precise terms and wording of the recognizance.
- [51] Ms. Mahon, what I am looking for primarily from you is: first the initial and potentially only reporting, what that is going to look like, so that they can meet with a probation officer, and then what I can or should build into the order in terms of what I expect the community work is going to be.
- [52] CNSL F. MAHON: Yes, Justice. My colleague, Mr. Candler, checked in with the registry this morning and all three can attend Community Corrections in this building today. They are open until four o'clock, so they can report as soon as the recognizance is prepared. Our three clients have put their heads together and drafted a more specific outline of the community service project that they are proposing. I have printed that out for the court. I will hand up two copies, one should probably be marked as an exhibit.
- [53] THE COURT: All right, thank you.
- Exhibit 14 On Sentence: Proposed project for community work service from the contemnors, one page
- [Discussion regarding terms of recognizance]
- [54] THE COURT: That is very helpful. Madam Registrar, I think then the terms of the recognizance should be these for each accused.
- [55] The recognizance will be a common law recognizance in the amount of \$500 without deposit and without surety. It will be for a period of one year. The terms will be: You shall keep the peace and be of good behaviour. You shall appear before the court if required to do so. You shall report within three business days to a probation officer at the Community Corrections office in Smithers, and the address I think will be built into the order.
- [56] Thereafter, the reporting requirement will be only as is deemed necessary by the probation officer for the purpose of ensuring completion of 150 hours of community work service.
- [57] And then the final term with respect to the community work service I think should be this, Madam Registrar: If at all feasible, the community work service should be done in partnership with the Lax'yip firekeepers.
- [58] I know that wording is difficult to enforce, the "if at all feasible", but the probation officer will exercise some common sense, I am sure.
- [59] And I think that in terms of Exhibit 14, if it can be appended to the recognizance, that would be helpful, so that the probation officer has that.

[Discussion regarding terms of recognizance]

[60] THE COURT: All right, so then perhaps the term for all three should be -- there should just be a basic term, provide the Community Corrections officer with current contact information, including a residential address and a telephone number.

[61] CNSL F. MAHON: Thank you.

[62] THE COURT: Mr. Battin, anything further from the Crown?

[63] CNSL P. BATTIN: Nothing further, thank you.

[64] THE COURT: All right. Just before we rise, I wanted to address all those who have participated and been present at these proceedings, both online and in this court over the many days that we have been proceeding in this case. I wish to say that the professionalism exhibited by all counsel was exemplary and I am grateful to counsel for that.

[65] With respect to the people before the court and their supporters who have filled this courtroom and, as on today, occasionally the jury box, from what I have seen from the bench while court has been in session, again the behaviour has been exemplary. That is not always the case in these emotionally charged contempt of court cases in this province. I am pleased that we were able to get this case to conclusion with the level of solemnity and dignity with which we have.

[66] Finally, I wish to note that I found the right of allocution exercised in particular by Shaylynn Sampson yesterday extremely moving and unusual, in my experience, and I am grateful for having had that experience.

[67] We will adjourn.

"Tammen J."

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