

CANADA / JUDGMENT

Gokey v. Usher

2023 BCSC 1759

COURT

Supreme Court of British Columbia

DECIDED

31 August 2023

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2023 BCSC 1759 Gokey v. Usher IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Gokey v. Usher, 2023 BCSC 1759 Date: 20230831 Docket: PRR-S-10740 Registry: Prince Rupert Between: Edward C. Gokey and Diane B. Gokey Plaintiffs And: Gordon F. Usher and Patricia Ann Parsons Defendants Before: The Honourable Mr. Justice Punnett (Appearing by Videoconference) Oral Supplementary Reasons for Judgment For the Plaintiffs: No appearance Counsel for the Defendants (appearing by videoconference): J. Adams Place and Date of Hearing: Terrace, B.C. August 31, 2023 Place and Date of Judgment: Terrace, B.C. August 31, 2023

Introduction

- [1] I have been advised by counsel that this application has been delivered to Mr. and Mrs. Gokey at their email address for delivery and no response has been received. Neither defendant has appeared.
- [2] The defendants seek clarification of my reasons indexed at 2023 BCSC 1312. Those reasons addressed a long-standing dispute between neighbours in which a myriad of issues and allegations were raised in a lengthy trial.
- [3] Specifically, the defendants seek clarification regarding whether those reasons in paragraph 244 dismissed the allegation of the plaintiffs in their amended notice of civil claim filed February 10, 2023 respecting "an assault on January 8, 2022 by Usher on Gokey using a motor vehicle".

Background

- [4] In paragraph 244 of my reasons for judgement I stated: "in summary the plaintiff's claims are dismissed in their entirety for the reasons given above".
- [5] In those reasons I had at paragraph 223 referred to the January 8, 2022 incident as follows: 223 The evidence does not support a finding that the defendants harassed the plaintiffs. The defendants did not engage in any "outrageous" conduct. I do not accept that Mr. Gokey experienced a "constant and escalating fear for his personal safety and life every moment he spent in Sandspit at the Gokeys' residence". The evidence is to the contrary. Mr. Gokey has

engaged in a pattern of overt provocation of the defendants and appears to enjoy doing so. He is deliberately confrontational in his interactions with the defendants. For example, he forced Mr. Usher to drive around him during the "second pass" on January 8, 2022 by standing out in the public roadway along Beach Road while Mr. Usher was engaged in snow clearing. The only harassment in this matter arises from the conduct of Mr. Gokey, who clearly has sought and continues to seek to cause distress to the defendants.

- [6] That is the incident that brings us here today, although more specifically what is referred to as the first pass of the truck with the plough. As I have noted in the course of conversations with counsel, I did not specifically address findings respecting the alleged assault on January 8 relating to the first pass. I do so now.
- [7] The allegation of assault is that as he was plowing the road Mr. Usher deliberately veered off the main portion of the roadway in the direction of Mr. Gokey spraying snow, slush and gravel over him and causing a small cut to his lip. The parties are at odds as on whether Mr. Usher veered towards Mr. Gokey and if so was it intentionally or otherwise.
- [8] A video was taken of the incident by Ms. Parsons. It shows Mr. Usher in the plow passing the front of the Usher residence heading down the highway past Mr. Gokey's property. Mr. Gokey is present around where the front corner of his and the defendant's property meet working with a shovel. I note his activities in that area had frequently been an issue between the parties. In any event, the video shows the truck approaching and Mr. Gokey turning to face it. There is a momentary glitch in the video once it is halfway past Mr. Gokey and then it continues.
- [9] There is evidence of Mr. Usher blowing his horn in advance, warning Mr. Gokey that he is coming down the highway ploughing snow. The video prior to what I refer to as the momentary glitch shows Mr. Usher's vehicle on the travelled portion of the roadway, and it shows it continues in that course of proceeding approximately halfway past Mr. Usher before the glitch occurs. There is no evidence of the truck changing its location on the road in the sense of moving from the centre line towards the edge of the road or veering in some fashion. Mr. Gokey, as he often has done in the history of this matter, remains where he is and remains facing the truck as it passes, and he shows, as far as I can tell from watching the video, no physical reaction to his passing, and after his passing he turns towards the Usher property. In other words, there is no indication of him being struck by anything from the plow.
- [10] He then turns to his left towards the defendant's home obviously aware Ms. Parsons is taking the video and raises his right hand upwards and wipes down his pants. The latter conduct is clearly directed at Ms. Parsons and her camera.
- [11] At trial Mr. Gokey filed Exhibits 2 and 3 which allegedly show marks on the roadway showing the vehicle swerving. I am not satisfied they do particularly when compared with the video of the truck proceeding down the roadway.

- [12] Mr. Gokey submitted at trial that because of the video being taken from a 90 degree angle the veering of the truck was not apparent. I do not agree.
- [13] I have reviewed the video a number of times including again this morning and was satisfied at the time of trial and when I prepared reasons and now, that the vehicle did not veer towards Mr. Gokey but rather passed on the highway portion of the road. It did not veer as alleged. I was satisfied then and remain satisfied that Mr. Gokey was once again deliberately engaging in confrontational conduct in his vendetta against the defendants and providing his interpretation of an event.
- [14] In addition, given my findings regarding Mr. Gokey's motives and credibility I do not accept his description of the incident.
- [15] Assault requires intention. I am not satisfied that Mr. Usher veered towards Mr. Gokey, deliberately or otherwise. Mr. Gokey has not met the burden on him to establish that Mr. Usher assaulted him. His claim of assault is dismissed. "The Honourable Mr. Justice Punnnett"

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Prepared on 26 October 2026 · Esheria