
CANADA / JUDGMENT

Olsen v. British Columbia

2009 BCSC 553

COURT

Supreme Court of British Columbia

DECIDED

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2009 BCSC 553 Olsen v. British Columbia

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Olsen v. British Columbia,

2009 BCSC 553

Date: 20090424

Docket: 02-5504

Registry: Victoria

Between:

Tim Olsen

Plaintiff

And:

Her Majesty The Queen in Right of British Columbia,

John Leroy York, Mary Ann York and Bud Larson

Defendants

Before: The Honourable Mr. Justice Bracken

Reasons for Judgment

Counsel for the Plaintiff:

H. J. Doehring

Counsel for the Defendant Bud Larson:

R. G. Kuhn

Dates and Place of Trial/Hearing:

October 20 - 24, 2008;

October 29 - 31, 2008;

November 3, 2008;

November 5, 2008

Victoria, B.C.

Written Submissions Received:

November 27, 2008

- [1] The plaintiff seeks damages from the defendant Alfred (Bud) Larson for alleged sexual assaults and sexual abuse that he says were committed by Mr. Larson in 1977 or 1978 when Mr. Larson worked at a youth camp that the plaintiff attended. The assaults are denied by Mr. Larson.

Background

- [2] The plaintiff was sent to the camp as a result of difficulties that he had with the law as a teenager. The camp was used by the British Columbia Government as a resource for teenage boys who were wards of the government or who had committed offences that involved them with the police or with probation officers in British Columbia. The camp was operated by Mr. John Leroy York who was a minister of the Pentecostal Church in Penticton. The action against Mr. York and the provincial government was discontinued on the first day of the trial. The trial then continued with Mr. Larson as the only defendant.
- [3] Mr. York had entered the ministry when he was 30 years old and worked as the pastor of a church in Whitehorse, Yukon. He was asked to act as the chaplain of the local prison and did so for several years from about 1966 to 1972. He had the opportunity to work with young men who were in trouble with the law and found that he enjoyed the work and believed he performed it well. When he returned to the Okanagan area of British Columbia he was asked by a local probation officer if he would build a program for youth to assist them in completing the school curriculum and to receive some vocational training. As a result he and his partners bought some land near Rock Creek, British Columbia and built the Monashee Mountain Wilderness Camp and School. The camp opened in 1972. Mr. York acted as the managing director of the camp and Mr. Mills and Mr. Pitt were camp managers who were resident at the camp and took care of the day to day operations. Mr. York attended at the camp most weekends and from time to time during the week. The camp operated at that location until 1982 when it was closed.

- [4] The camp was staffed by people of various skills. There was a teacher who was able to provide school curriculum up to Grade 12, two nurses, and several others who provided both labour and training in vocational skills, mostly in basic construction, livestock management and logging and sawmill operation. There was a cook resident in the camp. The cook was the only person who was paid a small regular salary, the rest of the staff worked as volunteers or were given small amounts of money from time to time in the nature of an honorarium. The camp buildings were largely constructed by staff members and some buildings were built or improved after the camp opened with the assistance of some of the boys who attended the camp.
- [5] Mr. York, now almost 88 years old, testified that they wanted the camp to be a wilderness camp located away from the distractions and influence of city or town life. The boys who attended the camp were mostly boys between the ages of 14 and 18 years who had been expelled from school or had quit school and had come to the attention of the British Columbia Human Resources Department as wards or otherwise, or who had difficulty with the law and were supervised by probation officers. Mr. York said that the boys sent to the camp often faced a choice of attending the camp or going to prison.
- [6] On the evidence presented, it does not appear that much was provided by way of the history of the boys who were sent to the camp and Mr. York only remembered one occasion where a youth criminal record history was provided. There were sometimes other boys attending the camp who were not there at the direction of probation or Human Resources but were placed there by their families. Some were accepted without charge as there was no one who could pay a fee. Typically there were between 25 and 27 boys in the camp at any one time.
- [7] Mr. York had long experience as a rodeo rider and cowboy before entering the ministry and continued his involvement in such activities after he became a minister. He said that he typically wore western dress including a cowboy hat. The camp kept a string of horses, many unbroken colts, as well as saddle and pack horses. There were also several milk cows at the camp.
- [8] Mr. York and Mr. Mills were both experienced rodeo riders and as part of the program at the camp they made use of horses in several ways. The boys were given chores that involved care of the horses; the horses were used for trail riding and also for recreation by way of rodeo competitions in the summer. The evidence of Mr. York and other staff members who testified was that in the summer months there were rodeo competitions and the boys were given the chance to participate to see if they could ride one of the unbroken horses for 8 seconds or more. According to the evidence, any of the boys who wanted to could attempt to ride and there were no rewards other than "bragging rights". In particular, there was no reward of a \$40 cowboy hat or western style belt buckle, similar to the ones usually worn by Mr. York.

- [9] There were at least two other locations where campsites were established away from the main camp. The closest of these was named Goatskin and the furthest away was called Lightning Peaks. There were good trails to each of these camps. Lightning Peaks was about 30 miles away and Goatskin was about 7 miles away. Lightning Peaks was at or near the tree line where there were no trees of any significant size only some scrub trees. There had been a provincial forestry tower there and it got its name as a result of the obvious signs of frequent lightning strikes in the area. It was used as a hunting camp and occasionally work parties were sent there to build corrals or to perform other work. It was high enough that it often had snow earlier than the main camp or after all snow at the main camp had melted. Mr. Pitts was usually in charge of any trip to Lightning Peaks as he was the staff member responsible for livestock and he knew how to pack and manage pack horses to carry the materials, tools and camp equipment required on trips to the camp. Mr. Larson was sent to Lightning Peaks as well to perform jobs such as trail clearing or fence building.
- [10] Discipline methods at the camp were described by the staff members who gave evidence as three or four of the staff talking to the boy involved and on occasion strapping the boys on their hands, usually three times on each hand. All of the staff members denied any strapping of boys on the buttocks with the exception of Mr. Larson who recalled one occasion when that happened and said that he was present and participated. The staff members said that haircuts were sometimes given as a disciplinary measure as many of the boys kept their hair very long at that time and the hair was cut short but heads were not shaved.

The Plaintiff's Evidence

- [11] The plaintiff gave evidence that he was born November 4, 1961 and he was 16 years old when he went to the camp. He said that he had been involved with problems with the law, specifically some break and enter and possession of stolen property charges prior to his 16th birthday. He said that he was sent to Monashee Mountain camp after he and a friend stole a truck and some guns. He said that he was taken to Penticton where he met Mr. York and Mr. York then drove him to the camp. He thinks he arrived at camp sometime in November 1977 on or very near his 16th birthday.
- [12] He described the camp and submitted a sketch of the camp drawn from his memory. He said that there were 3 or 4 boys in each cabin, sometimes with a staff member. He and one other boy lived in his first cabin. He said that Mr. Pitt looked after the livestock; Mr. Mills managed the logging operations of the sawmill and also did building construction and maintenance. Mr. Larson was also involved with the livestock and performed other jobs around the camp.
- [13] The schedule for the boys was one-half day of work and one-half day of school each weekday. Mr. Olsen said that by the spring of 1978 he felt good at the camp and was enjoying it. He said that he was working at his own speed in school and that there was no pressure on him. He said that his self esteem was much improved. He agreed that he had written a letter to his probation officer dated April 3, 1978 and that in that letter he had thanked the

probation officer for sending him to the camp. He said that the food was good and in all respects he was happy.

- [14] He said that sometime shortly after that letter was written Mr. Larson began sexually abusing him. He said that it was at a time of year when most of the snow was gone from the camp but there were still some patches of snow on the ground in places. The first incident he alleged was when he and Mr. Larson were working together at the barn removing manure and milking cows. Mr. Olsen said that he did not know how to milk a cow and was having trouble getting the milk to flow. He said that Mr. Larson told him that it was "just like pulling on a penis". He said that a discussion of Mr. Olsen's past led him to reveal that he had been sexually abused by his older brother for several years. He said that conversation took about five or ten minutes and that they then went for lunch.
- [15] Mr. Olsen said that the next day they were back working in the barn together and that he talked more about the things that his brother had done to him and how his brother rewarded him for keeping quiet. Then they started wrestling around in a playful way and Mr. Larson stopped and started rubbing his penis saying that it hurt. Mr. Olsen could see that he had an erection. Mr. Larson asked him if his brother ever had that problem and acted like it was a game. Mr. Olsen said on that occasion he gave Mr. Larson a hand job and masturbated him.
- [16] The next occasion was at a time when one of the mares that was in the camp was in heat. There was also a stud in the camp and Mr. Olsen says that Mr. Larson brought the mare down to one of the corrals near the stud. He said that Mr. Larson told him to watch what was happening. There was a conversation about the horses and that Mr. Larson rubbed the outside of Mr. Olsen's thigh while they were talking. Mr. Olsen was sitting on the top rail of the corral at the time. Mr. Larson then removed the mare from the corral and turned her back to the pasture. They then went back to the barn and there was more conversation about sexual matters. He said that during that conversation Mr. Larson asked him to suck on his penis and he complied. He said that Mr. Larson was frustrated over the way he was doing it and became angry and aggressive and then told him to spit on his hands and to use his hands as well. Mr. Olsen said that he gagged and threw up and Mr. Larson finished masturbating himself. He later told Mr. Olsen to take a shovel and made him clean up his vomit.
- [17] He said that Mr. Larson told him that he could get him extra things such as coffee and fruit from the cookhouse and that he could get him out of doing some chores. He said that Mr. Larson fulfilled these promises. After that he said that there were sexual encounters two or three times each week until approximately September 1978. Mr. Olsen said that he did not tell anyone because he did not think anyone would believe him and he was afraid that if others found out he would be teased.

- [18] Another incident is alleged to have taken place at Mr. Larson's cabin sometime during the summer of 1978. Mr. Larson lived alone in a small cabin known as the trapper's cabin. Photos of the cabin were entered as part of Exhibit 6. Mr. Olsen said that he was asked by Mr. Larson to come to the cabin one night and, once there, he was encouraged to talk about the things that his brother had done to him. He said that after some discussion about anal sex that Mr. Olsen had experienced from his older brother, Mr. Larson asked him to rub his back and Mr. Larson laid down on the bed on his stomach with his shirt off. He said that he was sitting on top of Mr. Larson's legs when he was told to get some hand cream that was in a small jar on a dresser next to the bed. He said that he took the cream and that both he and Mr. Larson had their pants off and Mr. Larson then committed anal sex on him. He said that it was very painful, that he "screamed" with pain and that there was a lot of blood. He said that he believed he should go to the hospital but that Mr. Larson just laughed and gave him a damp cloth to wipe it off. Mr. Olsen said that he went back to his cabin but was scared and did not sleep. He said that he got up in the night and took some toilet paper that Mr. Larson had given him to put down his pants to absorb the blood and put it in the fire.
- [19] Mr. Olsen testified that Mr. Larson told him that in exchange for submitting to the sexual activity he would arrange for him to ride a horse named Snowball in the weekend rodeos that were held at the camp and would help him break a horse that Mr. Olsen said was assigned to him by the camp. Mr. Olsen said that the arrangement was that anyone who could ride Snowball would receive a \$40 cowboy hat or a large belt buckle from Mr. York. He said that three or four days later he was allowed to ride Snowball. He said that he was so sore from the anal sex that he could not stay on and he was bucked off. While he was on the ground he was kicked in the head by the horse and Mr. York took him to hospital where he says he received some stitches. He said that he returned to camp and when he next saw Mr. Larson he told him that he could not ride the horse because he was too sore from the anal sex and that as it was Mr. Larson's fault he had to buy the hat for Mr. Olsen. He said that Mr. Larson refused and Mr. Olsen then threatened to tell Mr. Pitts or Mr. York that he was being sexually abused by Mr. Larson. He said that Mr. Larson got mad and told him that no one would believe him and that he would just be sent to a different school or a different boys' jail. Mr. Olsen never complained.
- [20] There was another alleged attempt by Mr. Larson to engage Mr. Olsen in some sexual activity near the sawdust dump that was in the same general area as the sawmill. Mr. Olsen said that he refused to be drawn into any activity and nothing further transpired.
- [21] Mr. Olsen alleged that the last attempt by Mr. Larson to engage him in sexual activity took place at what he referred to as Mountain Peaks camp; he likely meant Lightning Peaks. He said that he and two or three other boys were sent up to the camp to build a horse fence around the camp. Mr. Larson was the counsellor and Mr. Pitts went along to manage the horses. After camp was organized he said that Mr. Pitts went back to the main camp with the pack horses. Mr. Olsen said that one night while they were there Mr. Larson asked him to come to his tent to discuss the work for the next day. He went to the tent and Mr. Larson

asked him to take off his boots and jacket and come in the tent. Mr. Larson's dog was also there. Mr. Olsen said that he refused to comply with that request and they had words, Mr. Larson tried to grab his jacket and Mr. Olsen fell out of the tent to the ground. He said that Mr. Larson's dog was growling and tried to bite him. He said that he told Mr. Larson that he was not going to be involved with any sexual activity with him again and that if Mr. Larson kept trying he would tell.

- [22] Mr. Olsen said that as a result of his refusal to engage in sexual activity, Mr. Larson was angry and as a result he felt intimidated by him. He went back to his tent with the other boys but said nothing about what had happened. That night he said there was a severe storm and that he and the other boys were scared. He said that the horses that had stayed in the camp were restless and upset. He and the other boys were worried about bears. He said that he went to Mr. Larson's tent to ask him to go and calm the horses down but that Mr. Larson refused; he said that because Mr. Olsen had not done anything for him he would not do anything to help Mr. Olsen. He said that when they got up the next day one of the horses was dead. He claimed that Mr. Larson had hobbled all four feet of the horse rather than just the front feet and then tied it as well. As a result the horse got tangled up and strangled itself.
- [23] He said that Mr. Larson told them to dig a large hole and the horse was cut up, burned and the pieces were put in the hole except for one hind quarter that was kept aside for Mr. Larson's dog. They then continued with the work on the fence that they had been sent to do. When they returned to camp they found that it had been ransacked, apparently by a bear. Mr. Olsen said that he told Mr. Larson that the remaining leg of the horse had to be burned and buried but Mr. Larson put it up in a tree instead to save it as dog food. That night the boys were all so scared that the bear would return that they ran away and walked back to camp. Mr. Olsen said that it was cold and they stopped at an old cabin for a short time to warm up and that by the time he got back to camp he had suffered some frostbite.
- [24] After that incident, Mr. Olsen says that Mr. Larson mostly just ignored him. He did say that at one point Mr. Larson came by the sawdust pit and told him that he had better keep quiet or he would "kill him and no one would ever find him stuff like that". By the fall of that year Mr. Olsen's one year time at the camp was up and he was "released" from Monashee Mountain camp but he said that he volunteered to stay on and work at the camp. Shortly after that he went to another camp operated by the same people that had been established in northern British Columbia near Vanderhoof. Mr. Mills had taken management of that camp and he agreed that Mr. Olsen could come to the camp, known as Laidman Lake camp to help out with some of the other boys. Mr. Olsen said that he did not stay long as he "stood up" to a boy who was bullying the younger boys and was asked to leave.
- [25] Mr. Olsen described one other incident that occurred at some point early in his stay at the camp. He said that he and some other boys were staying in a cabin that was quite close to Mr. Larson's cabin. He said that he and the other boys were up to something one night, he thought perhaps sniffing gas, and he went to Mr. Larson's cabin to make sure he was there and would not catch them. Mr. Olsen described going up to the window and looking in to see

Mr. Larson sitting on a chair in the cabin, pouring something on his exposed genitals, and then allowing his dog to lick it off. He said that he went back to his cabin and told the other boys about it and that after that they teased Mr. Larson and called him a "dog-fucker" behind his back.

- [26] After leaving the camp, Mr. Olsen went back to Golden and spent some time with his parents. He continued to get into trouble and said that he had no role models and no self esteem. At one point, some years later, he was in Penticton looking for a truck to buy and he started looking through the phone book to try and locate some of the people who had been at the camp. He tried to make contact with individuals who had been at the camp with him, but apparently a complaint was made about the calls to the local police. The police contacted him and told him to quit trying to make contact with them, and he gave up. He said that on the same trip he went to the York residence but that Mr. York was not there and he only spoke to Mrs. York. He said that she was so proud of all of the things that she and her husband had done for boys over the years he did not have the heart to tell her what he claims had happened to him while he was at the camp.
- [27] He married his first wife Anita in 1990 but the marriage ended in 2001. She had a daughter from a previous relationship and together they had twin boys. In his evidence Mr. Olsen testified that he did tell his wife and his mother what had happened to him at the camp but his mother chose not to believe him as she was angry that he had disclosed the sexual abuse by his brother. He said his wife did believe him and supported him. He said that "For the first time in my life someone -- I was able to tell someone and when I did they didn't put me in jail for it."
- [28] Subsequently he was charged and pled guilty to charges of sexual assault of his stepdaughter. The sexual assaults extended over several years from the time that his stepdaughter was approximately age 6 until she was about 12 or 13 years old. The offences included attempted intercourse. He was sentenced to two years less one day and various reports were prepared for the sentencing hearing. In the course of interviews conducted to prepare the reports he made his first disclosure to any person in authority of the sexual assaults he alleges were committed by Mr. Larson. In part, he blamed the alleged conduct of Mr. Larson for his sexual assaults of his stepdaughter. Those events destroyed his marriage to Anita but while he was in custody he met his current wife Cheryl.
- [29] He said that while he was in custody he twice took the sexual offender program that was offered at Ford Mountain Institution and that it was very helpful. In his evidence he again said that he was "able to for the first time in my life be able to tell someone what happened to me." He says that he is still in counselling and that the relationship with his current wife is sometimes difficult.

- [30] He said that as a result of the abuse that he experienced in his life he has experienced alcohol and drug dependency at times, low self esteem and suicidal tendencies. He said that he lacked trust in other people and that he did not know the meaning of love -- he tended to equate love with sex. He attributes many of these difficulties to Mr. Larson. He said that his life was not good for 16 years and then when he got to the Monashee camp, which he believed was a place where he felt he could finally trust people, he was abused.
- [31] He described the discipline measures at the camp as being severe. He said that boys had their heads shaved as a measure of discipline and also were strapped. His description of the strapping was that it was carried out in a ritual manner performed by three or four male counsellors who had the boy bend over a table and the counsellors then took turns hitting the boy on the bare buttocks with a latigo strap. He said that each counsellor hit the boy three or four times. He described a latigo strap as a long leather strap that was about one and one-half or two inches wide. It was then doubled over to make a shorter strap and was used in that way to strap the boys. He said that the boys were offered a rag to put in their mouth to stifle cries of pain. He said that he had his head shaved and was strapped on occasion.
- [32] He gave evidence of the difficulties that he now has with respect to memory and giving evidence. He described what happens to him as "disassociation". He said that he gets confused, becomes slow in answering questions and things that happened when he was young get confused with things that have happened to him as an adult. He then gets confused over how he should answer, from the perspective of a boy or an adult.
- [33] On cross-examination he said that the first person he told about the sexual abuse by his brother was his mother. He does not recall exactly when he told her but he was in his 20s or 30s. He said that he did tell Mr. Larson as well and that he had several discussions about what his brother had done to him. He said that he told him because he was encouraged to do so as Mr. Larson was trying to befriend him. He said that he believed Mr. Larson was an authority figure who might help him and give him extra food and other privileges at the camp.
- [34] He said that he wrote the letter to his probation officer in April 1978 because he was feeling good about himself for the first time in the first few months he spent at the camp. He was afraid of the staff at first but was not the time he wrote the letter.
- [35] Mr. Olsen also said that he was sexually assaulted by one of the other boys at the camp, a boy named Danny Hunt. This was in the summer, presumably the summer of 1978, and took place in the washhouse. He described it as a "hand job" and that he had walked in on Danny Hunt and Mr. and Mrs. Pitts' daughter. Hunt approached him later in the washhouse and made him perform the act and threatened to "punch his face in" if he told anyone.
- [36] He was asked about his record for juvenile offences prior to being sent to the camp. He admitted several of the offences that are summarized in the documents contained in Exhibit 3. That exhibit contains copies of police reports and probation reports that were filed over a

period of several years. Perhaps the most serious of these reports involved an allegation of a serious sexual assault on a young girl that Mr. Olsen was babysitting. At the time of the alleged offence, the girl was about three and one-half years of age. It was alleged that he had sexually assaulted her and then struck her to keep her from telling. He did not admit this offence in his evidence but acknowledged there was a court appearance involving those allegations and he did recall going to court about it and believes that was one of the reasons he was sent to Monashee camp.

- [37] The material indicates other property related offences as well as other assaults. These reports describe a young man with little or no remorse for his conduct and who was characterized by a lack of trustworthiness. He also admitted that when he did leave camp for the first time at Christmas 1977 to go home to Golden he ended up in jail after he took a lady's purse at the bus depot and was returned directly to camp from police custody without seeing his family.
- [38] Mr. Olsen said that he was in Mr. Larson's cabin once but was at the cabin on other occasions as well. The one time he was in the cabin was the night of the alleged incident of anal sex. He said that Mr. Larson read him some Bible passages prior to that incident. He said the next incident of sexual activity was on what he referred to as the outer area of the cabin near the front door.
- [39] Mr. Olsen was cross-examined on several alleged inconsistencies between evidence that he gave at the trial and versions of the same events that he gave at other times. He was asked about evidence that he gave at the trial involving allegations of sexual abuse he made against his brother. His evidence in that case was that he had anal intercourse with Mr. Larson three times. He explained that he was confused at that time between the incidents involving his brother who did subject him to anal sex three times and the incidents involving Mr. Larson.
- [40] He was asked why he did not tell any of the other staff members at the camp about what was going on. He responded that he was afraid of Mr. Larson. He was asked why he did not run away from the camp as other boys apparently had and he said that he was afraid of the punishment he might receive if he was caught and returned, although he agreed that Mr. Larson had threatened to kill him. He confirmed that he went on a long canoe trip with the Gilmore brothers to the Bowron Lakes. He agreed that he trusted the Gilmores but he made no mention to them of what he alleged Mr. Larson was doing to him. He agreed that he had provided a written account in which he said that he had sought out Mr. York in Penticton but he could not tell him because he was so old and proud of helping the boys, whereas in his evidence in chief he said that he did not speak to Mr. York but only to Mrs. York.
- [41] He acknowledged that he had testified at his examination for discovery conducted by counsel for the then defendant Government of British Columbia that the sexual abuse at the hands of Mr. Larson commenced three weeks to a month after arriving at Monashee camp and continued throughout the time that he was there. When he was shown the letter dated April 3, 1978 to his former probation officer in which he thanked the probation officer for

sending him to the camp and stating how happy he was, he explained that the sexual abuse did not commence until after the date of that letter and ended in the fall of 1978.

- [42] He also conceded that the first time he had mentioned the incidents at the washhouse was at trial of this case. He explained that the questions asked of him in cross-examination had triggered his memory on that point. He did not recall telling his counsellor Ms. Judy Webb (now Judy Dunn) that he had been sexually assaulted in a group home in November 1986 -- Spring 1988. While he did not recall giving this information to his counsellor the document is clearly signed by both he and his counsellor.

The Defendant's Evidence

- [43] Mr. Larson gave evidence denying each of the allegations that were made against him by Mr. Olsen. He testified that he is married with four daughters. He grew up in Michigan in the United States and completed high school and one year of university before leaving home. Later he completed two years of Bible College in Alberta as well as one year of a diesel mechanics program. He has worked as a general construction labourer and spent time as a farm and ranch labourer. After leaving university he went to Juneau, Alaska where he worked for a short period of time. He had planned to walk the Alaska Highway when he left Juneau. A girl that he knew in Juneau told him about Mr. York who she said would give him a place to stay when he got to Whitehorse, Yukon. When he arrived in Whitehorse he contacted Mr. York and then stayed on in the Whitehorse area and worked for about a year at a youth camp that Mr. York ran in that area. After he left the Yukon, he stayed in touch with Mr. York while he worked and attended Bible College. Eventually he was told by Mr. York about the planned Monashee camp and he came back up to Canada to work for Mr. York again.
- [44] He arrived in Penticton just before Christmas 1974 and went to work at the camp. He was in Penticton sometime in the spring of 1974 and was approached by a Canadian Immigration officer who had noticed the American licence plates on his truck. As he had entered Canada on a visitors permit and told the officer that he was working he was advised that he had to leave Canada and re-enter under a different status. Mr. York assisted him in obtaining a work permit and he returned to the camp a short time later.
- [45] He has no criminal record nor has he ever been charged with any criminal offence. Other than these allegations there have never been any other allegations of sexual impropriety or criminal conduct. He has worked with children through his church and has coached and refereed sports events for youth for many years without any incident.
- [46] Mr. Larson's job at the camp was as a handyman or general labourer. He helped out with many of the jobs that needed to be done and also helped out with the livestock. He lived in the trapper's cabin throughout the time that he was there. He described the cabin and identified it in the photos entered as an exhibit. He prepared a sketch of the interior of the cabin and described the interior. He said there were never any chairs in the cabin, only

three stumps that were used as chairs. The main area had a table, a small cupboard and a stove. The back area was used as a bedroom and there was a double bed and a bunk bed in that part of the cabin. There were two windows, one at the side in the main area and one at the back in the bedroom area. They were small single pane glass windows and they were both covered in polypropylene as a means of insulation. As a result they were opaque and difficult to see through.

- [47] He described the typical work and school day that took place at the camp and said that a normal work crew consisted of one staff member and three or four boys. He said there were always at least two or three boys in the crews and he did not work with just one boy. He did not have any involvement with teaching the boys. He got up early and started the fires in the cookhouse. He described the barn as a small barn with no windows. As a result, the door was always open when people were working there. He said that it was normal to have three or four boys to work to clean out the barn and remove the manure. He often did the job by himself but he denied ever working alone with Mr. Olsen in the barn.
- [48] He has a life long hearing loss and while he was at the camp he always had a dog that he said assisted him in hearing things that were going on. He said that the dog made a noise if anyone was around his cabin. The dog was not aggressive with the boys but there were one or two occasions when boys teased the dog or threw sticks or rocks at the dog. The boys were spoken to about this and the matter was apparently raised with Mr. Mills and Mr. York. He did hear some boys teasing him or calling him something one day as he was walking to the cookhouse, but he did not hear anyone calling him a "dog-fucker" at any time.
- [49] He was asked about each of the incidents of sexual contact alleged by Mr. Olsen and he denied each of them. As to the incident at the barn, he said that he never was alone at the barn with Mr. Olsen at any time nor did he try and teach him to milk a cow. He agreed that the barn was cleaned out each day but it only took between ten and thirty minutes depending how many were involved. He said that there was never any play wrestling or other physical contact with Mr. Olsen at the barn or elsewhere. He stated firmly that none of the alleged incidents in the barn ever happened.
- [50] He said that the incident that was alleged to have happened at the corral involving a mare in heat did not happen nor could it have happened. A mare in heat and the stud horse were never put anywhere near each other except for breeding purposes and then only under the supervision of several others. He said that the mares were kept in a pasture about one-half to three-quarters of a mile away. He agreed that he did on occasion assist others in the breaking of horses, but never with the boys or on his own as he did not have much experience with the horses.
- [51] He said that he never talked to Mr. Olsen in his cabin or read any passages from the Bible to him. He said that Mr. Olsen was never in the cabin while he was there and the allegations of sexual encounters in the cabin are simply false. He said that there was never a dresser in the bedroom. He said that he had no authority over who got to ride horses at the recreational

rodeos and he never spoke to anyone on Mr. Olsen's behalf so that he could ride Snowball. He said that so far as he knew there was no reward system other than "bragging rights" for boys who were successful in staying on for the required time. He does vaguely recall Mr. Olsen being injured but denies ever having a conversation with him about buying him a hat.

- [52] He confirmed that there were two outer camps at Monashee camp. The closest one was named Goatskin camp. The other was called Lightning Peaks camp and he said that it was located about 25 to 30 miles from Monashee. He said that it was a day long trip by horseback. He worked with teams of boys clearing trails from time to time and on occasion work was done to make a more established camp at Lightning Peaks. He recalled going up with a group of boys on one occasion to build some fencing to contain the horses while people were using the camp. The fences were built with lodge pole pine cut from nearby areas and then lashed together with twine to make a fence.
- [53] He said that Mr. Pitts usually went along to manage the horses and because it was a full day's ride if Mr. Pitts wanted to return to Monashee rather than stay at Lightning Peaks he would stay overnight and return in the morning. The horses that were there were kept close to the camp by hobbling their front feet and one horse was always tied to ensure that if others wandered off there was one horse to ride to collect them the next morning.
- [54] He did recall one night when a horse got scared and his dog chased something in the night and was gone for about an hour before it came back. Later that same night the horse was scared again and the next morning one of the horses was found dead. He said that horse was cut up and buried except for one hind quarter. The next day they went out to work and when they came back their camp had been ransacked by a bear. He did not recall who the boys were but he said that none of them left camp. He said that the camp was cleaned up and food placed in a pannier and put in a tree.
- [55] He did recall one incident at a different time when one of the boys left camp and ran away and they went looking for him and found him. He said that boy was a native boy and was not Mr. Olsen. He said that he had never seen a grizzly bear in that area or around the main camp during the years he was there. As for the incident alleged by Mr. Olsen at Mr. Larson's tent, he says it did not happen. There was no such incident and none of the boys who were there that night left the camp to walk back. Thus, while some of the events related by Mr. Olsen were confirmed by Mr. Larson, he denied any of the contact between the two that was described by Mr. Olsen and he did not recall whether Mr. Olsen was even on the trip.
- [56] He denied any of the incidents in the washhouse and did not believe that the washhouse was finished until much later than the time Mr. Olsen was at the camp. He believed that the washhouse was just at the first stages of construction when Mr. Mills left Monashee to go to the Laidman camp near Vanderhoof in the fall of 1978. He recalls that Mr. Mills assisted them with completing the washhouse when he came back from Laidman sometime in 1979.

- [57] He testified about the discipline methods used at Monashee. He confirmed the evidence of others that a latigo strap was used to strap boys on the hands on occasion and he recalled being involved in two incidents. He was not sure of the reason for the discipline on the first incident but thought it might have been gas sniffing and he believed that Mr. Olsen was strapped on the hands three times. The second incident took place in the cookhouse. One of the boys did not like to eat vegetables and the usual routine was that no one could leave the table until all of the people at the table had finished their meals, including vegetables.
- [58] On that occasion the other boys were allowed to leave and Mr. Larson sat with the boy who refused to eat his vegetables. He said that it was test of patience that went on for some time. Mr. Larson said that he finally said something to the effect that the boy should finish his meal so that the ladies who worked in the cookhouse could leave. At that point the boy picked up a knife and stuck it into the table with some force very close to Mr. Larson's arm. Mr. Larson took the boy to Mr. Pitts and after some discussion, it was decided that the boy should be strapped and he was strapped on the bare buttocks. Mr. Larson was the only witness to say that a strapping on the bare buttocks ever occurred.
- [59] Mr. Larson agreed that a boy by the name of Bruce Panter shared his cabin for a period of between four and six months. He said that Mr. Panter had completed his allotted time at the camp but wanted to stay on. He had proven to be a good worker, particularly in the area of roofing and as there was roofing work that needed to be done placing shingles on the roofs of some of the camp buildings, he was allowed to stay on. As there was nowhere else for him to stay he shared the trapper's cabin with Mr. Larson. He said that the sleeping arrangements were that Mr. Panter slept in the bed and Mr. Larson slept in the bunk bed in the same room.
- [60] Mr. Larson denied the alleged incident of allowing his dog to lick something off his genitals. He said that he could not have been sitting in a chair as there were no chairs in the cabin, that there were only three stumps to sit on and that the windows were covered with polypropylene so it was very difficult to see through them. He also said that the only light in the cabin was a coal oil lamp or a candle. He also said that his dog would never have let someone get close enough to the cabin to look in the window without giving an indication to Mr. Larson that someone was out there. He described only one occasion when he was reading in the cabin when his dog started growling and indicated someone was near the cabin. He went out and found two sets of footprints in the snow leading up to the cabin window and he saw two boys running away towards one of the boys cabins. He did not follow them and thought no more about the matter. He was certain there were two sets of tracks in the snow.
- [61] He said that he left the camp in 1980 to return to Michigan for a short time and then came back to Canada, eventually settling in the Abbotsford area of British Columbia where he still lives. His reason for leaving was that he had been told that the camp would likely close in the next year or two and he decided that he should move on. He said that there have never been any other allegations made against him of this nature or of any other inappropriate

behaviour of any kind. He said that while he was at the camp in 1977 and 1978 he was seeing a young woman who was the niece of one of the neighbours and that they eventually married. She died of cancer a few years later.

Other Defence Witnesses

- [62] Mr. Bruce Panter gave evidence for the defence by video. He confirmed that he was at the camp and that after he had completed his year at the camp he wanted to stay on and continue working and learning job skills. He said that he stayed in Mr. Larson's cabin with him for a few months and said that there was never any hint of sexual impropriety by Mr. Larson. He said that they shared a large double bed but each stayed on their own side. He said that Mr. Larson was good to him and never made any attempt to approach him in any sexual way.
- [63] Three brothers who worked at the camp for several years, Mr. Ron Gilmore, Mr. David Gilmore and Mr. Jack Gilmore also gave evidence. They were at the camp in the late 1970s and early 1980s and enjoyed the work. They each said that the boys seemed to enjoy the camp and that Mr. Larson seemed like a friendly, quiet man who was well liked by everyone. There was no sign or rumour of any sexual impropriety involving Mr. Larson at the camp and they all said that it was very unlikely that any secret could be kept for long in the camp. He said that if the boys knew anything was going on eventually one of them would tell one of the staff. They also said that there were almost always people around the camp and that it would be difficult although not impossible to find any private space around the camp as people were constantly coming and going. They confirmed that the boys were typically assigned work in groups of three or four and not by themselves.
- [64] They each spoke of haircuts as being one form of discipline that was used, although not head shaves. They also confirmed that on occasion boys were strapped on the hands but not on the buttocks. Mr. Dave Gilmore recalled Mr. Olsen and said that he had taken him and another boy on a canoe trip through the Bowron Lakes of British Columbia. He said that nothing unusual transpired and they all got on well. He had heard of boys running away from the camp including from Lightning Peaks camp, but he had no personal knowledge of such occurrences.
- [65] Mr. Ron Gilmore said that he got to know Mr. Larson very well and that he stayed with him for a time in the trapper's cabin. He was shown Mr. Larson's sketch of the cabin and confirmed that it was accurate. He recalled only one time when one boy walked in to camp from an outer camp and said that there was some talk of frostbite suffered by the boy, but he knew nothing directly. He said that there were never any rewards offered the boys for riding the horses at the rodeos and that there were no hats given out.

- [66] Mr. Jack Gilmore gave similar evidence and said that he never went to Lightning Peaks camp and did not recall any boy running away from there. He also denied that there were any rewards offered for riding in the rodeos. He said that he had not stayed in touch with Mr. Larson after they left the camp and that he had a call from him to say that he might get a call from lawyers but he did not know what it was about until he talked to Mr. Larson's lawyer.
- [67] Mr. Barry Mills was one of the original participants in organizing and running the camp. He was there at the beginning and he stayed for about 6 years. He left in 1978 to open and operate the Laidman camp near Vanderhoof. He knew Mr. Olsen at the camp. He said that Mr. Olsen never discussed personal matters with others so far as he knew and that he seemed happy and smiling. He said that Mr. Olsen tended to bully the younger weaker boys but left the older or larger boys alone and tried to become their friend. He said that they tried to create a family atmosphere at the camp and said that there were rarely any secrets, or at least rarely any for long. He said that the boys always worked in groups and that the only time he was alone with a boy was when he was teaching one of the boys to fall trees.
- [68] He described an incident when he caught Mr. Olsen heating a nail on the stove and then knocking it off to the floor with the stove handle. He then told one of the younger boys to pick it up before someone stepped on it. That incident was apparently not the first time Mr. Olsen had done such things. Mr. Mills said that he intervened but felt that it showed a level of meanness in Mr. Olsen's character. He described the discipline methods in much the same way as other witnesses including strapping on the hands with a latigo strap. He said that the only time heads were shaved was when he and one of the boys made a bet and he shaved his beard and the boy shaved his head, but said that was not connected to any discipline.
- [69] He described the two outer camps and said that he did recall three boys coming into camp to say that they were afraid of bears. He went back with them to what he believed was Goatskin camp but there was no sign of any bears and the boys went back to the camp without any discipline of any kind. He did not recall Mr. Olsen riding the horse Snowball or getting hurt. He said that there was never any system of rewards by giving the successful boys hats or buckles. He said that the system of selecting boys to ride the horses was to simply ask who wanted to go first.
- [70] He said that he was largely responsible for organizing and constructing the buildings around the camp including the washhouse. He said that the washhouse was not complete when he left in late 1978. When he came back to the camp in the spring of 1979 he cut the trees for the shake shingles for the roof as the roof was not completed even then although the heater was in and the building could be used.
- [71] He said that gas sniffing was a problem in the camp and that some boys had been burned while sniffing gas in the sauna. The gas ignited and the sauna was destroyed as a result. Gas sniffing was seen as a serious matter and boys who were caught sniffing gas were punished. He said that they tried to operate like a family and to show the boys that work could be fun

and worthwhile. He was not aware of any reports that were received on any of the boys and to his recollection they knew very little about the background of the boys. He could not recall Mr. Olsen saying anything negative about Mr. Larson other than he did recall that he called him a "goof" on occasion.

Discussion

- [72] These allegations reach back over thirty years and the evidence of Mr. Olsen is not without several inconsistencies not only with the evidence of other witnesses but between the versions related by Mr. Olsen from time to time. The allegations were not raised by Mr. Olsen to anyone in a position of authority until after his conviction and prior to his sentencing for serious sexual assaults on his stepdaughter in 2002. At that time he attributed some of the cause of his behaviour to the harm caused to him by Mr. Larson some 25 years earlier.
- [73] The character of Mr. Olsen when he went to the Monashee camp in 1977 was documented in his juvenile record as someone who was no stranger to legal difficulty. Included in his prior offences was a previous sexual and physical assault on a three and one half year old child. Even after his arrival at the camp and on his first visit home for Christmas of 1977, he did not get past the bus depot before getting in trouble and ending up in custody. He has been estranged from his parents and older brothers for some time although he has some contact with his younger brothers. He has subsequent convictions as well. The staff at the camp described him as a young man who tended to bully those smaller than himself and a boy who had been described in various school, police and probation reports in less than complimentary terms. He was obviously a troubled and difficult young man when he arrived at Monashee camp and he has had considerable difficulty both legally and emotionally since that time.
- [74] He gave inconsistent versions of when and to whom he first disclosed the assaults he alleges took place at Monashee camp. He said at trial that he told his mother first although at his examination for discovery he said that he told his ex-wife first. At other times he has given evidence of others that he told at different times. None of the people he says he told were called as witnesses.
- [75] Mr. Larson has no criminal record of any kind and there is no evidence that there has been any other allegation of this or any other impropriety against him over his lifetime. He is described as a family man with four children and a history of community service. There is nothing in the evidence, other than what is alleged by Mr. Olsen, to provide any corroboration or support to the allegations. In fact, the evidence of other staff members and at least one of the boys in attendance at the camp is inconsistent with the allegations made by Mr. Olsen.

- [76] While there are some parts of Mr. Larson's testimony that are consistent with things that Mr. Olsen has said, such as the death of a horse at Lightning Peaks camp and a bear ransacking the camp, Mr. Larson and other witnesses do not have the same recollection on many other aspects of the same events. Some of the key allegations that were recorded in Mr. Olsen's summary or statement dated August 11, 2003 were not repeated in his evidence at trial or were related with differences in detail. In addition, he sought to explain his occasional difficulty in answering questions or his inconsistent answers by what he referred to as "disassociating" which no doubt is a psychological term that he has heard through his counselling but was never properly explained.
- [77] Mr. Olsen described the cabin where Mr. Larson stayed as having chairs in the eating area of the cabin and a dresser in the bedroom but Mr. Larson said that there never was a dresser or any chairs and Mr. Ron Gilmore confirmed a sketch drawn by Mr. Larson showing the layout of the cabin and the furniture present was accurate. At one point, Mr. Olsen told Ms. Judy Webb, his counsellor, that the man who had abused him at the camp had been arrested and charged with "multiple counts of abuse of children", a fact that he must have known was not true.
- [78] Mr. Olsen went on a long canoe trip with Mr. Jack and Mr. David Gilmore and one other boy. He was obviously comfortable with them and said that he trusted them, yet many miles away from camp and the influence of Mr. Larson he never complained to them or anyone else about what he claims was going on. The evidence of his background and the description of his behaviour at the camp is not that of a weak, timid boy who could be easily manipulated by an adult, but rather the description a brash outgoing troublesome young man who tended to bully others. It does not seem likely that he would quietly submit to abuse without telling someone or displaying some noticeable reaction, yet there is nothing in the evidence to indicate that he showed any sign of being subjected to such abuse. He was taken to hospital as a result of the injury when he was kicked in the head by the horse. On the evidence he travelled to and from the hospital with Mr. York and yet told him nothing. He must have had other opportunities to say that he was afraid to return to the camp or to advise that the abuse was going on. There is no evidence that he ever told anyone.
- [79] His evidence of sexual activity in the washhouse and the detail that he gave seems suspect given the evidence that the washhouse was not functional as late as the fall of 1978, a time when Mr. Olsen says that sexual activity had ceased because he had chosen to stand up to Mr. Larson.
- [80] When his one year time at the camp was up, Mr. Olsen expressed a wish to stay on and did for a short time before he was sent to the Laidman camp. The reason for sending him to Laidman, according to Mr. York, was a conflict with one of the other boys at Monashee. Again, if he was experiencing the abuse he says he was the question arises as to why he would want to extend his stay at the Monashee camp.

- [81] The evidence of all of the defence witnesses was that life at the camp was quite structured. The day was divided into one-half work and one-half school with some time for organized recreation. It appears that the camp was usually active with people and that there was little opportunity for privacy or for staff members to work one on one with any of the boys. While there is evidence of occasions when boys had enough privacy to be sniffing gas and other unacceptable behaviour, the evidence is that such activities were not carried out for long without detection. The evidence was that the work assignments were usually in groups of three or four with the exception of Mr. Mills when he was instructing in falling trees. He said he taught this skill to one boy at a time for reasons of safety.
- [82] Mr. Olsen's description of what he saw Mr. Larson and his dog doing through the window of the cabin also seems doubtful given the evidence that Mr. Olsen told other boys about what he claims to have seen and the view of several of the staff members who gave evidence that secrets in camp did not last long. It seems unlikely that an event like that would not have spread throughout the camp and eventually to one or more members of the staff.
- [83] Mr. Olsen's testimony that Mr. Larson promised to make arrangements for him to ride the horse Snowball is not consistent with the evidence of Mr. York and Mr. Mills who were directly involved in the rodeos that any boy who wanted to could ride the horses at those events.
- [84] The events surrounding the trip to Lightning Peaks camp are difficult to reconcile with the other evidence. Mr. Mills recalled three boys coming into camp frightened of bears but believes it was Goatskin camp not Lightning Peaks and the boys were left back at camp with no difficulty. There is little in the way of corroborating evidence for the version given by Mr. Olsen. It seems likely that if three boys had left camp in cold weather, walked 25 to 30 miles at night and in circumstances when a horse had died, those events would have been recalled by one of the staff members who was there. Instead they all recalled some part of the events but not as happening in one incident.
- [85] The allegations made by Mr. Olsen describe sexual abuse by an older, larger man who is depicted as callous and uncaring while seeking sexual gratification by victimizing Mr. Olsen. The description of Mr. Larson by those who knew him and the pattern of his life are completely contrary to that characterization.
- [86] Obviously allegations of this nature must be taken very seriously. A teenage boy who was sent by government officials to a camp in a remote area and who claims to have been sexually abused by someone in a position of authority must be listened to carefully and with an open mind regardless of when or how the allegations are made. At the same time, the evidence presented in support of such allegations must be the subject of an exacting and careful analysis: *G. (B.) v. British Columbia*, 2003 BCSC 1890, at paras. 118 - 119.

[87] As was noted in *F.H. v. McDougall*, 2008 SCC 53, at para. 46, the "evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test". The court also provided some guidance in conducting an analysis of such evidence, at para. 40:

there is only one civil standard of proof at common law and that is proof on a balance of probabilities. Of course, context is all important and a judge should not be unmindful, where appropriate, of inherent probabilities or improbabilities or the seriousness of the allegations or consequences. However, these considerations do not change the standard of proof.

[88] As noted by Fisher J. in *Otter v. MacDougall*, 2006 BCSC 1536, para. 15, cases of this nature are challenging. The detail of memory of those who might corroborate or contradict the allegations is often faded or lost and there is usually no available objective evidence that might assist in determining the truth. Fisher J. went on in para. 16 to comment that:

It is not necessary for the court to conclude that the plaintiff has consciously lied before his evidence is not accepted; it may simply be unreliable. The test is not whether the plaintiff has an honest belief that the assault took place; rather, it is whether he has proven to the requisite standard that the event in fact occurred. The passage of time hampers the plaintiff's ability to prove his claim, and also affects a defendant's ability to locate and present evidence.

[89] Similar comments have been made in other cases where historic sexual assaults have been alleged. No doubt long delay poses difficulties to a plaintiff in obtaining and presenting evidence to support his claim, but it places a defendant at a disadvantage as well: *Blackwater v. Plint*, 2001 BCSC 997; at paras. 337 - 343, varied, 2003 BCCA 671, aff'd 2005 SCC 58; *E.(R.E.) v. T.(W.O.)*, [2000] B.C.J. No. 342 (S.C.) at para. 12.

[90] In this case an approach to analysis similar to that utilized by Fisher J. in *Otter v. McDougall* is appropriate. In commenting on the evidence of the complainant, the court stated at para. 19:

It is true that a plaintiff such as Mr. Otter has an uphill struggle. He has spent most of his life in jail. He has been diagnosed with an anti-social personality disorder. (Expert evidence confirmed that individuals with this disorder are inclined to be deceitful.) Most importantly in this case, the plaintiff has given evidence about the circumstances in which the assault took place that is inconsistent with other evidence; he has also given evidence that is inconsistent with information he has provided to others at various times. The Crown alleges that the plaintiff may have fabricated his story, since it fits into the same pattern as the abuse allegations of other victims of Mr. MacDougall.

[91] In this case Mr. Olsen has given different versions of the circumstances of the alleged assaults that are inconsistent with other evidence and he has given evidence that is inconsistent with what he has told others. He told Ms. Webb that the man who committed the assaults was arrested and charged with multiple counts of sexual assault when nothing like that had happened. The first official disclosure that he made was at a time when he was awaiting sentencing on a serious sexual assault on a child and, in part, he blamed his

conduct on the alleged past treatment by Mr. Larson.

- [92] There is no doubt that he is a troubled man and that his upbringing and history have contributed to his somewhat fragile mental health. However, the evidence of his behaviour and character prior to his attendance at Monashee camp seems inconsistent with his reaction to the behaviour he attributes to Mr. Larson.
- [93] Perhaps more importantly, the evidence of Mr. Larson was given in a frank, open and consistent manner. There is nothing that he has said in evidence that is contradicted by what he has been shown to have said at an earlier time. He gave evidence about his participation in the strapping of one boy on the bare buttocks even after others had testified they had no recollection of that ever happening. His character and behaviour was described by all of those who knew him at the material time as quiet, polite and gentle. While at the camp he was involved in the early stages of a relationship with a female niece of one of the neighbouring ranchers, a woman he later married. His life has been marked by normalcy. He has worked consistently, contributed to his community and raised his family all without any improper behaviour being discovered.
- [94] Finally, the evidence of others who worked at the camp all testified that the camp was not an easy place to keep secrets nor was it easy to find either time or a place to be alone. If Mr. Olsen's evidence is believed, the alleged assaults commenced sometime shortly after April 3, 1978 and continued two or three times each week until approximately September of that year. Assuming that period to cover something in the order of 20 weeks, even at the rate of two incidents each week there would have been about 40 different occasions when Mr. Larson would have had to find a time and a place to carry out the alleged sexual abuse. The events would have to have been kept secret in a place where secrets were rare and to have taken place in private away from either Mr. Olsen's cabin or Mr. Larson's as Mr. Olsen's evidence was that he was in Mr. Larson's cabin only once and at the cabin only a few times. Again, some private place was necessary for each of these occasions and on the evidence of others who were at the camp, privacy was not easy to find.

Conclusion

- [95] On all of the evidence, I reject the evidence of Mr. Olsen. I cannot say whether Mr. Olsen is lying for some reason of his own, or whether he has somehow created in his memory a series of events that are not true. What I can say is that I do not believe that the allegations that he has made against Mr. Larson are true. I accept the evidence of Mr. Larson that he at no time committed any act of sexual assault or had any sexual contact with Mr. Olsen. I find that the plaintiff Mr. Olsen has not proven the allegations on a balance of probabilities and in the result the action is dismissed.
- [96] The defendant Mr. Larson is entitled to his costs on Scale B.

"J. K. Bracken, J."

The Honourable Mr. Justice Bracken

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