

CANADA / JUDGMENT

R. v. Pickton

2020 BCSC 1200

COURT

Supreme Court of British Columbia

DECIDED

13 August 2020

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2020 BCSC 1200 R. v. Pickton

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

R. v. Pickton,

2020 BCSC 1200

Date: 20200813

Docket: X065319

Registry: New Westminster

Regina

v.

Robert William Pickton

Before: The Honourable Mr. Justice Williams

Reasons for Judgment

Counsel for Robert William Pickton:

R. Brooks

Counsel for the Royal Canadian Mounted Police:

J.N. Ahern

The Applicant, Norman Traversy

appearing via telephone

N. Traversy

Place and Date of Hearing:

New Westminster, B.C.

July 27, 2020

Place and Date of Judgment:

New Westminster, B.C.

August 13, 2020

- [1] Before the Court is an application by two persons seeking to intervene in a Royal Canadian Mounted Police ("RCMP") application to dispose of certain exhibits seized in the course of a criminal investigation that led to the prosecution of Robert William Pickton.
- [2] The application for intervenor status was opposed by the RCMP and by Mr. Pickton. Each of them submit that, for a number of reasons, the application should be dismissed.
- [3] At the conclusion of an oral hearing, I dismissed the application for intervenor status.
- [4] These reasons will set out the background of the matter and provide the reasons for the dismissal.

Background

- [5] The context of the application is a lengthy and extensive police investigation into the deaths and disappearances of a number of women in the Greater Vancouver area. That investigation culminated in the criminal prosecution of Mr. Pickton. In December 2007, he was convicted of a number of counts of murder and is currently serving a life sentence.
- [6] There are no further substantive prosecutions arising from the events. All appellate proceedings have long since concluded.
- [7] In addition to the criminal prosecution, there have been two commissions of inquiry touching upon the underlying events. The first was the Missing Women Commission of Inquiry, headed by Wally Oppal, QC. That commission concluded its activities in 2013. The other inquiry was the National Inquiry into Missing and Murdered Indigenous Women. Its final report was published on June 3, 2019. Accordingly, its activities are now concluded.
- [8] Additionally, as I understand, there are two civil lawsuits that arise from the activities of Mr. Pickton. One of those, brought on behalf of a number of persons, is active and ongoing. The other, initiated by two individuals, is apparently dormant.
- [9] Counsel for the RCMP advises that the police presently hold a massive number of exhibits (in the order of 100,000 - 200,000) related to the investigation. Storage of these items consumes substantial space and represents a significant ongoing cost.

- [10] The present RCMP application seeking permission to dispose of exhibits concerns only items seized at a site near Ruskin, BC. The total number of exhibits at issue is in the order of 200. This was a fairly minor site in the overall context of the entire investigation. It is anticipated that further applications will be made to deal with the totality of the items in due course. Counsel for the RCMP emphasizes that disposal in this context is not to be equated with destruction, and says that every reasonable effort will be made to deal with the exhibits in an appropriate and culturally responsible way.
- [11] Counsel advises that the RCMP deliberately delayed its application for an order permitting disposal, wishing to ensure that the commissions of inquiry had access to the materials before concluding their activities. Similarly, counsel advises that cooperative communication is ongoing with counsel in the extant civil proceeding, so as to ensure that any relevant materials are properly made available for access.
- [12] Earlier this year, shortly after the initial notice of application was filed by the RCMP, this Court became aware of two persons, Norman Vincent Traversy and Zsuzsanna Holland, who had indicated that they intended to oppose the granting of the orders sought by the RCMP. I directed that that any representations they might wish to make would first require that they establish standing. Specifically, they were required to make application for intervenor status.
- [13] On June 9, 2020, a limited number of documents were filed in the New Westminster Registry, including a notice of application to seek intervenor status. Additionally, four affidavits were filed, one each from Mr. Traversy, Ms. Holland, Jeff Lozier and Diane Hicks.
- [14] On June 18, 2020, the matter was back before the Court. At that time, I set July 27, 2020 as the date for the intervenor application to be heard. I also directed that the applicants would be permitted to appear by video and that they were required to file and serve any materials that they intended to rely upon.
- [15] On the date of the hearing, no further material had been filed by the applicants. The four filed affidavits had not been served. Mr. Traversy appeared by telephone. Ms. Holland was not in attendance, either by telephone or video. I note that court staff made repeated efforts to contact her in order to set up a telephone link. Those efforts were not successful.
- [16] The material before this Court to be considered on the application is comprised of the four affidavits described above (subject to the concern that they were not served on the respondents as directed). As well, an affidavit sworn by Sgt. Shane Jeffery Parsons, a member of the RCMP, was filed by the respondent.
- [17] I turn now to the substance of this application. The following brief summary of the basis for the claim for intervenor status is gleaned from the four affidavits described at para. 13 and the notice of application filed June 9, 2020.

- [18] Ms. Holland and Mr. Traversy, styling themselves as "private prosecutors", claim that crimes of genocide, crimes against humanity, war crimes and aggression have been committed by Canada's Prime Minister Justin Trudeau and others. They allege these events have occurred on the territory of the State of Tsilhqot'in and/or in Canada and/or in the USA. Appended to the affidavit of Ms. Holland (of which I will say more later) is a letter dated December 28, 2019, addressed to the International Criminal Court ("ICC"), Office of the Prosecutor, requesting "investigation and indictments" from that court.
- [19] Relatedly, Mr. Traversy apparently initiated a private prosecution against Prime Minister Trudeau and certain government agencies in Ontario.
- [20] As I understand the position of the two applicants, they seek to have this Court ensure that any evidence related to the Pickton investigation will be preserved for the purpose of the prosecutions they intend to initiate (or have already initiated), as well for the "families of the victims who were murdered at the Pickton pig farm."
- [21] In submissions to this Court, counsel for the RCMP, supported by counsel for Mr. Pickton, advanced a number of bases upon which dismissal of the application for intervenor status should be made, including but not limited to the following:
1. Failure to serve the respondents as ordered;
 2. The inherent jurisdiction of the court to prevent obstruction and abuse;
 3. Deficient pleadings; and
 4. Lack of any merit to the application.
- [22] While I consider all of those objections to be well-founded, I base my decision primarily on the last of them, lack of merit to the application.
- [23] In view of the fact that none of the affidavits of the applicants has been served, notwithstanding this Court's order to do so, they are not entitled to be ascribed any evidentiary effect. Nevertheless, I consider it appropriate to make some commentary respecting them.
- [24] The affidavit of Ms. Holland appends what is described as "a true copy of correspondence from International Criminal Court matter OTP-CR66/20 and redacted copy of first page of information sworn".
- [25] The correspondence sent to the ICC, Office of the Prosecutor, which I take to be the "information sworn", is on the letterhead of the Chilcotin National Congress. A number of passages in that letter have been redacted for no apparent reason, such that the entirety of the document cannot be fully understood. Additionally, it is incomplete in that only the first page is exhibited, in circumstances where it is apparent that the actual document was more than one page. As to its characterization, it is best described as a complaint - it is not an information in the sense of being an initiation of a prosecution process, as that term is

usually understood. In the body of the letter, reference is made to the "bona fide sovereign, independent self-sufficient, self-governing State of Chilcotin" accepting the jurisdiction of the ICC.

- [26] The other document appended to the affidavit is a letter from the ICC, Office of the Prosecutor. It acknowledges receipt of the correspondence dated December 28, 2019, but states explicitly that it is an acknowledgment only, and does not mean that an investigation has been or will be opened by the Office of the Prosecutor.
- [27] My principal concern with the material appended to Ms. Holland's affidavit is that, apart from being incomplete, it is quite clearly put before the Court to support the proposition that there is a proceeding underway and, accordingly, there is a legitimate reason to believe that the investigatory material (authority for the disposition of which the RCMP seeks) is relevant and should be preserved for that purpose. To my mind, that is a deliberate misrepresentation of the situation. The affidavit of Sgt. Parsons satisfies me that the application that was filed with the ICC, Office of the Prosecutor was assessed by the prosecutor's office, which concluded that the allegations were not within the jurisdiction of the ICC and therefore there was no reason to proceed further. Notice of that dismissal was communicated to the sender on February 25, 2020. Accordingly, there is good reason to believe that when Ms. Holland's affidavit was filed on June 9, 2020, indicating that there was a proceeding in the ICC, she knew or ought to have known that the court had in fact declined to pursue the matter.
- [28] Appended to the affidavit of Sgt. Parsons is an affidavit of Chief Roger William, Vice Chair of the Tsilhqot'in National Government, affirmed April 14, 2016. In it, he deposes that the Chilcotin National Congress is an interest group within the Tsilhqot'in Nation. It does not speak for the Tsilhqot'in Nation nor does it represent the Tsilhqot'in Nation or any of the Tsilhqot'in people. Ms. Holland is not Tsilhqot'in; she has no authority from the Tsilhqot'in Chiefs, the Tsilhqot'in National Government or the Tsilhqot'in Nation to act in any capacity for that nation or those people. Neither the Tsilhqot'in Nation nor the Tsilhqot'in National Government are presently pursuing charges of genocide, war crimes or any other offence against Prime Minister Trudeau. Accordingly, her use of that letterhead in communication with the ICC, implying that she represents the State of Chilcotin, seems to me to be of quite dubious propriety.
- [29] Finally, I note that Ms. Holland is the subject of a vexatious litigant order in the Supreme Court of British Columbia. She has not, at any time in her appearance before this Court, seen fit to raise or report that fact. There has been no suggestion that she recognizes any obligation to seek leave to bring this application.
- [30] Generally, the affidavits filed by Mr. Traversy, Jeff Lozier and Diane Hicks are replete with references to the Tsilhqot'in Nation, the American FBI, and others, including a retired general of the US military, and Homeland Security. For the most part, the affidavits are confusing, oblique, rambling and essentially mischievous, although the affidavit of Mr.

Lozier does reveal that the private prosecution initiated by Mr. Traversy in Ontario has been stayed, so there is no proceeding in that jurisdiction. The evidentiary value of these affidavits, even if they had been served as directed, would be, at best, minimal.

- [31] Finally, in his oral representation on the hearing of the application, Mr. Traversy advised the Court that he had recently met with a group he described as "Clan Mothers" (persons I would surmise are First Nation elders). He says they are "quite concerned" and "want evidence produced". Suffice to say, the evidentiary value of that is also nil.
- [32] In short, the material upon which this application purports to be founded is largely nonsense and quite at odds with any standard of evidentiary acceptability.
- [33] In the course of submissions, counsel for the RCMP made reference to a number of authorities, including the lengthy and comprehensive judgment of the Alberta Court of Queen's Bench, *Meads v. Meads*, 2012 ABQB 571. In that decision, Associate Chief Justice Rooke provides an exhaustive examination of the phenomenon of what he calls Organized Pseudolegal Commercial Argument ("OPCA") litigants in the courts of this country, their strategies and the effects they have upon the proper operation of the court system.
- [34] I do not intend to examine the present application through the prism of the *Meads* decision. Certainly, there is an air about the activities of the two applicants that bears striking similarity to many of the strategies of the OPCA litigants. I make no specific finding in that regard.
- [35] As a final observation, and this is the basis for my disposition of the application, I note that the jurisprudence is clear with respect to the test for the granting of intervenor status. Generally, such status will be granted where the applicant demonstrates direct interest in the substantive litigation and has a valuable contribution to make. In the application at hand, neither of those criteria are met.
- [36] It is for those reasons, which I have stated briefly, that the application stands dismissed.

"Williams J."

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Prepared on 29 October 2026 · Esheria