

CANADA / JUDGMENT

Teal Cedar Products Ltd. v. Rainforest Flying Squad

2022 BCSC 1212

COURT

Supreme Court of British Columbia

DECIDED

24 May 2022

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2022 BCSC 1212 Teal Cedar Products Ltd. v. Rainforest Flying Squad IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Teal Cedar Products Ltd. v. Rainforest Flying Squad, 2022 BCSC 1212 Date: 20220524 Docket: S211602 Registry: Vancouver Between: Teal Cedar Products Ltd. Plaintiff And Unknown Persons Operating as the "Rainforest Flying Squad", Robert Arbess (also known as Reuben Garbanzo), John Doe, Jane Doe, and Persons Unnamed Defendants And British Columbia (Ministry of Forests, Lands, Natural Resource Operations and Rural Development) Third Party Before: The Honourable Justice Thompson Oral Reasons for Sentence re Erika Bennett Counsel for the Crown: N. Melling R. Robinson Counsel for the Contemnor: (via videoconference) N. Ross Place and Date of Hearing: Nanaimo, B.C. May 24, 2022 Place and Date of Judgment: Nanaimo, B.C. May 24, 2022

- [1] THE COURT: Erika Bennett has admitted criminal contempt of the April 2021 injunction order that prohibits certain obstructive activity in an area referred to in the order as the "injunction area," roughly congruent with TFL 46.
- [2] On 17 June 2021, she was lying down on a road in the injunction area and impeding a vehicle. There were other contemnors, bystanders, and police officers present in the area. Her actions physically obstructed the road and prevented vehicles from passing. She had her left arm inside a device known as a "sleeping dragon." It was buried in the ground vertically, and the device was reinforced by cement and a metal cable. The purpose of the device was to hinder efforts to remove her and it took the RCMP considerable time and effort to extract her. They used tools to unearth the device, and then cut open the device to access the chain. When they finally cut open the tube and prepared to sever the chain inside, they discovered that it was not actually attached to her wrist. After being extracted, Ms. Bennett refused to walk and the police carried her to a police vehicle in a blanket.
- [3] Ms. Bennett is 21 years of age. She has no criminal record. She lives in Nelson. I gather that up until days ago she worked two jobs involving working seven days a week: one as a line cook, the second as a clerk in a liquor store. I learned through her counsel that she quit these jobs in order to attend court. Her actions in doing so, I think, are symptomatic of what

I detect to be some naïveté on the part of Ms. Bennett about the legal process and how she might best advance her interests. In both official languages, I have repeatedly endeavoured to get alleged contemnors to understand that they ought to engage counsel in these cases, and I was distressed to learn that Ms. Bennett has given up this work.

- [4] Ms. Bennett is resourceful. She tells me that she has more work lined up. She is going to be working in a pulp mill starting on May 29, doing a 14-day cleanup job. It is one-off, but she expects that she can return to her liquor store job. She does not have dependants, but she told me that she buys her father's car insurance for him.
- [5] Her counsel tells me that she has some issues with ADHD, and problems reading and comprehending documents including the court documents that have come her way. She has a high school education and has some training as a firefighter. She strikes me as a person of good character. She also strikes me as a person of strong character who might benefit from taking a bit more advice than she has taken to this point in time.
- [6] The Crown seeks a seven-day jail sentence. The principles of sentencing for criminal contempt are referred to at length in the Crown's written submissions in this case. These principles are not the subject of controversy on this sentencing. In the first rank of sentencing considerations in criminal contempt cases is the Court's responsibility to maintain the rule of law. To do so, it must impose a sentence which deters others and denounces the conduct. Of course, I must also consider the circumstances of the contempt and the circumstances of the contemnor in achieving a proportionate sentence.
- [7] Persons of good character who have committed similar acts in this case who have admitted their contempt at an earlier stage have received a \$2250 fine, or 75 hours of community work service. I agree with the Crown's submission that there must be some discount in the amount of mitigation available for the guilty plea in light of its lateness, but I take account of what I said earlier about Ms. Bennett's very recent engagement of Mr. Ross's services and the degree of naïveté that I detect in relation to legal proceedings. There should not be a deep discount, and I am not satisfied that jailing this 21-year-old person is a fit sentence. I acknowledge that she would rather serve a short jail sentence than do community work service, but work service is something that she will have to bear.
- [8] I impose a sentence of 85 hours of community work service. I will give her 23 months to carry that out, and for that purpose there will be a 24-month probation order. [DISCUSSION RE PROBATION ORDER DETAILS] "Thompson J."

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