

CANADA / JUDGMENT

Teal Cedar Products Ltd. v. Rainforest Flying Squad

2022 BCSC 1213

COURT

Supreme Court of British Columbia

DECIDED

14 June 2022

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2022 BCSC 1213 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 1213 Date: 20220614 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 Nicholas Lelek Counsel for the Crown: N. Melling R. Robinson Counsel for the Contemnor: N. Ross Place and Date of Hearing: Nanaimo, B.C. June 14, 2022 Place and Date of Judgment: Nanaimo, B.C. June 14, 2022

- [1] THE COURT: On 27 May 2022, Nicholas Lelek was convicted of criminal contempt of the order of Justice Verhoeven which prohibits certain obstructive activity in a designated area surrounding the Fairy Creek watershed. In convicting Mr. Lelek, I found facts as follows.
- [2] On 21 May 2021, Mr. Lelek was sitting on a travelled portion of BD 2000, a logging road in the injunction area. Behind him was a banner indicating opposition to logging of old growth forests. Other members of the public were milling around nearby. Mr. Lelek's right arm was in a section of PVC tube that was inserted into the ground - this apparatus is known as a "sleeping dragon" and is designed such that a person making use of it may detach themselves from it if they wish to do so. Mr. Lelek was advised by the officer in charge that his actions in blocking the road were contrary to a court order. He chose to remain in the device, and the object removal team eventually did remove him.
- [3] After his removal, Mr. Lelek spent the rest of that day and part of the next day in police custody. The parties agree that he is entitled to credit for three days served. But for the absence of a guilty plea, it is common ground that parity with others sentenced in this proceeding would indicate a sentence of 50 hours of community work service. The Crown submits that a seven-day jail sentence less credit for time served is appropriate. Counsel for Mr. Lelek submits that 65 hours of community work service is sufficient to give proper effect

to the principles of sentencing, particularly in light of his client having served the equivalent of three days' jail.

- [4] Mr. Lelek is 23 years old. No criminal record is alleged. He identifies as non-binary. He has a high school education, and plans to pursue fish and wildlife studies at either Selkirk College or UBC North. Since high school he has focused on his passion for making music and travelling. At his sentencing, he told the Court about his decision to go to Fairy Creek. He wished to protect old growth forests, particularly because of the role that these forests play in mitigating climate change and the role they play in providing necessary habitat for screech owls and other animals. In the course of his visit, he felt compelled to take action. Thereafter, he felt the need to see the process through to conviction. His decisions were of conscience and were acts of non-violent civil disobedience. The methods must be criticized but I accept that Mr. Lelek's motives were altruistic and in support of a highly rational cause.
- [5] The narrow issue on this sentencing is this: What difference should the absence of a guilty plea make to the sentence? Whether or not a person pleads guilty and when they do so are not insignificant factors in the sentencing analysis, and the effect of the absence of a guilty plea will depend on all the circumstances. It is rare that the absence of a guilty plea is a particularly weighty consideration, and in the context of criminal contempt the absence of a guilty plea is not near the first rank of sentencing considerations. The cases referred to in the Crown's sentencing brief direct that denunciation and deterrence occupy this first rank. Of course, the sentence imposed must be proportionate and so the circumstances of the offender must be considered. And, the circumstances of the offender may well have a more substantial mitigating effect than the presence of a guilty plea, even in circumstances such as in this proceeding where guilty pleas, and especially early guilty pleas, are of welcome assistance to the Court's management of the cases of over 400 alleged contemptors.
- [6] I am satisfied that notwithstanding the absence of the mitigating effect of a guilty plea, the combination of the time served by Mr. Lelek, a further notional day in custody represented by his time in court today, and 65 hours of community work service as proposed by defence counsel is sufficient denunciation of his conduct and is a sufficient deterrent to Mr. Lelek and others. It is a heavier sentence than would have been imposed had he pleaded guilty, but not disproportionately so.
- [7] Mr. Lelek, you will be on probation for 12 months. You will complete the 65 hours of community work service within the first 11 months of this 12-month term of probation. [DISCUSSION RE PROBATION ORDER DETAILS] "Thompson J."

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/22/12/2022BCSC1213.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/teal-cedar-products-ltd-v-rainforest-flying-squad-2022-bcsc-1213>

Prepared on 29 October 2026 · Esheria