

CANADA / JUDGMENT

Trans Mountain Pipeline ULC v. Mivasair

2022 BCSC 2482

COURT

Supreme Court of British Columbia

DECIDED

13 January 2022

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2022 BCSC 2482 Trans Mountain Pipeline ULC v. Mivasair IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Trans Mountain Pipeline ULC v. Mivasair, 2022 BCSC 2482 Date: 20220113 Docket: S183541 Registry: Vancouver Between: Trans Mountain Pipeline ULC Plaintiff And David Mivasair, Bina Salimath, Mia Nissen, Corey Skinner (aka Cory Skinner), Uni Urchin (aka Jean Escueta), Arthur Brociner (aka Artur Brociner), Karl Perrin, Yvon Raoul, Earle Peach, Sandra Ang, Reuben Garbanzo (aka Robert Arbess), Gordon Cornwall, Thomas Chan, Laurel Dykstra, Rudi Leibik (aka Ruth Leibik), John Doe, Jane Doe, and Persons Unknown Defendants Before: The Honourable Justice Fitzpatrick Oral Ruling (Adjournment Application) (Hearing proceeded via teleconference) Counsel for the Provincial Crown: N. Wiberg The Contemnors, April Thomas, appearing on her own behalf and as agent on behalf of Romilly Cavanaugh, Jocelyn Pierre, and Henry Sauls: A. Thomas No other appearances. Place and Date of Hearing: Kamloops, B.C. January 13, 2022 Place and Date of Judgment: Kamloops, B.C. January 13, 2022

- [1] THE COURT: This is an application on this proceeding with respect to four of the alleged contemnors, namely Ms. Thomas, Mr. Sauls, Ms. Pierre and Ms. Cavanaugh (collectively, the "Contemnors"). The Crown has advanced allegations of criminal contempt, arising from an incident in the Kamloops area that took place on October 15, 2020.
- [2] Since that time, there have been various unsuccessful efforts to get this matter on for hearing with respect to these alleged contemnors and, also, other alleged contemnors who are said to have acted in breach of the Injunction on October 17, 2020.
- [3] By my count, this is the fourth adjournment application that has been made in respect of these alleged Contemnors. The previous adjournments were granted by me for the various reasons that were advanced at that time. Most of the adjournments, if not all, were supported by the Crown. The reasons for the adjournments arose from various calamities that have occurred since the trial was scheduled include the wildfire situation in the BC Interior and the flooding that took place in the Lower Mainland in late fall 2021.

- [4] Ms. Thomas is now representing all of the alleged Contemnors, which include herself, Mr. Sauls, Ms. Pierre and Ms. Cavanaugh. Ms. Thomas has read out what she describes as ten reasons for this adjournment. She alleges that there are personal circumstances relating to the state of the roads which, for the most part, affect Ms. Cavanaugh travelling from Vancouver. I am also told that Ms. Cavanaugh has some personal issues, in the sense of flooding in her home and her mother going into palliative care.
- [5] I will just describe very briefly the ten reasons cited by Ms. Thomas. She complains about disclosure. She complains about transcripts. She complains about what she calls unprofessional conduct on the part of Mr. Wiberg. With respect to a number of these ten reasons, she states that the accused need more time. She states that she wants a case manager assigned. She also complains about me as the judicial officer or person who is hearing this trial, alleging bias and the like. Ms. Thomas also makes allegations about needing more time to explore various issues and the like.
- [6] The Crown's position on this application is that this matter was scheduled in accordance with my directions at the last adjournment hearing in December 2021. At that time, I indicated to everyone that it was my intention to have this matter heard as soon as reasonably possible, given the significant delay that has now occurred. Even if the trial proceeds this month, that will inevitably result in a delay of approximately 13 months from the time of the alleged contempt. It is clear to me that this criminal contempt matter is a matter that needs to be addressed as soon as reasonably possible given the nature of criminal contempt, in the sense that it potentially stands as a signal to others that this type of behaviour might be tolerated.
- [7] The Crown's position is that they are not opposing the application on the basis of the bad road conditions and Ms. Cavanaugh's personal circumstances. That seems to be a somewhat reasonable position although, in balance, I am not convinced that these are sufficient reasons to further delay this matter.
- [8] Three of the alleged Contemnors live in the Kamloops area where the alleged contempt took place. Bad roads are, to my mind, something that can be dealt with if people drive properly and have proper vehicles to drive. Ms. Cavanaugh has a further distance to go by any means. The earlier excuse for not coming to Kamloops since the roads being closed is no longer the case. As far as I am aware, and I have not been told otherwise, there are routes to Kamloops, either through the Highway #1 or through the Hope/Princeton and Okanagan stretch. As far as I am aware, those routes are open and available to Ms. Cavanaugh. Alternatively, she can get on a bus which is allowed passage along the Coquihalla Highway directly to Kamloops.
- [9] I appreciate Ms. Cavanaugh has some personal concerns. Unfortunately, that is the case but it is something that I have heard continuously at these adjournment applications. It is frankly a fact of life that people have these types of issues in their lives that have to be addressed within the overall circumstances here.

[10] Accordingly, I am not convinced that these are compelling enough reasons to adjourn the trial. My decision is that the trial will proceed as scheduled. "Fitzpatrick J."

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Prepared on 26 October 2026 · Esheria