

CANADA / JUDGMENT

# Vancouver Fraser Port Authority v. Joseph

2021 BCSC 1527

## COURT

Supreme Court of British Columbia

## DECIDED

30 June 2021

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2021 BCSC 1527 Vancouver Fraser Port Authority v. Joseph IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Vancouver Fraser Port Authority v. Joseph, 2021 BCSC 1527 Date: 20210630 Docket: 31596-1, 31596-2, 31596-3, 31596-4, 31596-5, 31596-6 Registry: Vancouver Between: Vancouver Fraser Port Authority Plaintiff And Frank Joseph, Danielle Violet Josephine Guerrero, Justin John Tollenaar, Haley Lackie, Amanda Goulding and Amber Lynn Statters Defendants Before: The Honourable Mr. Justice Tammen Oral Reasons for Sentence Counsel for the Plaintiff: C.S. Johnson, Q.C. A.C. Nelson Counsel for the Accused, Joseph Frank, Danielle Guerrero, Justin Tollenaar, and Amber Statters: J. Doyle Counsel for the Accused, Haley Lackie: T.B. Magder Counsel for the Accused, Amanda Goulding: M.F. Silongan Place and Date of Hearing: Vancouver, B.C. June 30, 2021 Place and Date of Judgment: Vancouver, B.C. June 30, 2021

- [1] THE COURT: Before the court for sentencing are six individuals who have entered guilty pleas to an allegation of criminal contempt arising from protest activity amounting to a blockade of the entrance to the Port of Vancouver and the adjacent city streets on February 25, 2020. That protest activity and blockade was in violation of an order I made on February 9, 2020, enjoining all individuals from blockading access to the various port entrances in the Lower Mainland.
- [2] Immediately following their arrest by members of the Vancouver Police Department, these six individuals were released on an appearance notice with a return date in this court approximately one year ago. Largely due to COVID, the first appearance in this court was delayed. There was then a further delay while various procedural issues were addressed, including a summary determination by this court as to the nature of the contempt to which the six respondents would enter pleas of guilty.
- [3] I am told by their counsel and accept that each of the six accepts responsibility for their actions and wishes to enter a guilty plea at an early stage of proceedings.
- [4] The submission before me today is a joint submission on sentence which Mr. Nelson for the plaintiff, Vancouver Fraser Port Authority, says is consistent with the position taken by Crown counsel and adopted by the court in the series of cases that came before this court under the style of cause Trans Mountain Pipeline ULC v. Mivasair. In those cases, the usual sentence that was imposed for a first offender following an early guilty plea was either a fine

of \$500 or 25 hours of community work service. That is the sentence proposed here. I am satisfied that it is the appropriate type of sentence to impose in this case. Such a sentence would in no way bring the administration of justice into disrepute and is in keeping with previous decisions of this court.

[5] I do intend to sentence in keeping with the proposed joint submission.

[6] With respect to the accused, Amber Statters, the sentence is as follows. There will be a period of 12 months' probation. The terms of probation are as follows:

- a) You must keep the peace and be of good behaviour;
- b) You must appear before the court when required to do so by the court;
- c) You must notify the court or the probation officer (PO) in advance of any change of name or address, and promptly notify the court or the PO of any change of employment or occupation;
- d) You must not impede or obstruct any commercial traffic or any vehicle from entering or exiting Vancouver Fraser Port Authority lands;
- e) You must not be within 100 metres of the intersections of:
  - i. Hastings Street and Clark Drive in Vancouver, BC, except while in a moving motor vehicle for the sole purpose of travelling to and from the Vancouver Aboriginal Friendship Centre;
  - ii. McGill Street and Commissioner Street in Vancouver, BC; and
  - iii. Heatley Avenue and Powell Street in Vancouver, BC;
- f) You must report by telephone to a probation office at 275 East Cordova Street on or before 4:00 p.m., July 2, 2021, and thereafter as directed until you have completed your community work service hours; and
- g) You must complete 25 hours of community work service under the direct supervision of the probation officer. Your community work service must be completed by 4:00 p.m., December 31, 2021.

[7] With respect to the remaining five accused, Justin Tollenaar, Amanda Goulding, Hal Lackie, Frank Joseph, and Danielle Guerrero, the sentence will be similar, but rather than 25 hours of community work service, there will be a fine payable in the amount of \$500.

[8] The sentence for each of the five individuals will be as follows. There will be a fine in the amount of \$500 payable to the Attorney General of British Columbia by 4:00 p.m., September 30, 2021. There will be a probation order for a period of 12 months. The terms of that probation order will be as follows:

- a) You must keep the peace and be of good behaviour.
- b) You must appear before the court when required to do so by the court.

- c) You must notify the court or the PO in advance of any change of name or address, and promptly notify the court or the PO of any change of employment or occupation.
  - d) You must not impede or obstruct any commercial traffic or any vehicle from entering or exiting Vancouver Fraser Port Authority lands.
  - e) You must not be within 100 metres of the intersections of:
    - i. Hastings Street and Clark Drive in Vancouver, British Columbia, except while in a moving motor vehicle for the sole purpose of travelling to and from the Vancouver Aboriginal Friendship Centre; ii. McGill Street and Commissioner Street in Vancouver, British Columbia; and iii. Heatley Avenue and Powell Street in Vancouver, British Columbia.
- [9] Ms. Magder?
- [10] MS. MAGDER: My Lord, while you were reading that out, I just remembered, September 30, 2021, I believe, is potentially going to be a statutory holiday, so I wasn't sure if you wanted to just change that date?
- [11] THE COURT: That is the date by which the fine is payable?
- [12] MS. MAGDER: Yes, My Lord.
- [13] THE COURT: It does not matter.
- [14] MS. MAGDER: Okay.
- [15] THE COURT: But thank you for bringing that to my attention. So that is the end date by which the fine must be paid.
- [16] Anything else then from any counsel that has come to mind as I have been reading those terms? Okay, and any questions from any of the accused about the conditions I have just imposed? No, I see shaking heads.
- [17] I want to thank counsel once again for the professional way in which this matter was resolved. "Tammen J."

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