

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Trans Mountain Pipeline ULC v. Mivasair*,
2018 BCSC 947

Date: 20180528
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 Mr. Justice Affleck

Oral Reasons for Sentence

(Re: Elizabeth May)

In Chambers

Counsel appearing as Special Prosecutor
Re: Elizabeth May:

G. DelBigio, Q.C.

Counsel for Elizabeth May:

A.N. MacKay
A. Ejsmont

Place and Date of Trial/Hearing:

Vancouver, B.C.
May 28, 2018

Place and Date of Judgment:

Vancouver, B.C.
May 28, 2018

[1] **THE COURT:** Ms. May's circumstances and her conduct do not fit the pattern of others who have pleaded guilty to criminal contempt in these proceedings and who have been subject to \$500 fines or community work service orders. Ms. May is not only a member of parliament, she is also the leader of a political party whose purpose is to have increasing influence on public opinion on matters of importance in Canada. In this instance Ms. May has sought to influence others to disobey the injunction.

[2] The rule of law is not a guaranteed feature of Canadian life. It needs constant vigilance to be sustained. It is not only judges who have that obligation; so does everyone else, most particularly those members of parliament who lead political parties. We can easily look to other places in the world to see where the rule of law has never existed or has been lost. The dire consequences are on the daily news that we all see. The law applies to everyone. Nobody is entitled to pick and choose the laws or the court orders they will obey because they believe they have a higher obligation. If they choose to do so and offer public defiance of a court order, the judges of this Court have a duty to respond to that defiance.

[3] As well as being a member of parliament, Ms. May is a lawyer. Lawyers enjoy privileges in our society such as that of professional advocates in the courts. With privilege comes responsibility. In this case Ms. May had a responsibility to obey the injunction and to persuade others to do so.

[4] I note that no law or order has prevented Ms. May or any other persons from protesting the building of the Trans Mountain Pipeline even near to the worksites. The injunction expressly preserves the right to peaceful, lawful and safe protest.

[5] I conclude that on March 23, 2018 Ms. May went to a worksite of Trans Mountain Pipeline with the intention of defying the injunction in a manner which drew maximum attention by the media to that defiance. That is criminal contempt of court. Ms. May exploited her role as a member of parliament and as a party leader to encourage others to defy the injunction. Her punishment for criminal contempt must be greater than that of persons who do not hold positions of authority and influence.

[6] I cannot accept a fine of \$500 as recommended by the Crown and defence as a fit sentence. It is unusual for judges to depart from joint submissions, but in this case I conclude it is appropriate to do so.

[7] Ms. May, would you please stand up.

[8] There will be a fine of \$1,500. You will have until 4:00 p.m. on Friday of this week to pay the fine. You understand that?

[9] ELIZABETH MAY: Yes, My Lord.

[10] THE COURT: Do you need further time to pay it?

[11] ELIZABETH MAY: No, My Lord.

[12] THE COURT: Thank you, Ms. May.

“Affleck J.”