

128017-1 (Surrey)
33510-2-C (Delta)
Surrey Registry

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA
(BEFORE THE HONOURABLE JUDGE WINGHAM)

Surrey, B.C.
November 25, 2010

REGINA

v.

JOHN MARTIN CUMMINS et al
and
DALE WILLIAM ARMSTRONG et al

PROCEEDINGS AT
SENTENCING SUBMISSIONS

COPY

Federal Crown Counsel:

J. M. Le Dressay

Appearing on his own behalf:

P. Eidsvik

RUSSEL JACOBSON

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THE ACCUSED RUSSEL JACOBSON: Your Honour, my name's *Russ Jacobson*. I'll try to be short. Forgive my time if I --

THE COURT: It's all right. Go ahead, sir.

THE ACCUSED RUSSEL JACOBSON: -- forget, I'm a little bit nervous.

THE COURT: It's all right.

THE ACCUSED RUSSEL JACOBSON: Do you like your job?

THE COURT: Sir, I just want to hear from you.

THE ACCUSED RUSSEL JACOBSON: Yeah, okay. Fishing to me is my passion. I love it. I grew up -- I was probably four years old the first time I went with my dad. At 15, I was running a boat up and down the coast. I never shaved 'til I was 20. I was stopped by Fisheries and they determined that I was too young, so I had to take my mother out on the boat for a year. Fishing is my life. I never realized that until I started having it taken away from me. It was never a job to me. I loved it. Although it fed my family, it was my -- it's my livelihood, and now it's gone. I have four fishing boats and licences. I made more money when I was 15 than I make today, based on these new fisheries that DFO has come by and different regulations, like the Mifflin Plan, it has just put a halt to my means of -- of making a living.

And when I went protest fishing, I believed in my heart 100 percent that the day I came to a court in Canada that -- there was no doubt in my mind that I was going to win, based on living in a democratic country.

How could you possibly have a law for this guy and a separate law for me?

And I believed a hundred percent in my heart that my day in court, I was going to win and this would all fall into place and -- and I'd be -- have my fishing life back. But that fact didn't happen and it's gotten worse and worse and worse. I've struggled with marital problems. I too am depressed. I'm on medicine prescribed by the doctor. Some -- some days I don't want to get up out of bed.

I -- I've had to take a job to pay for -- to keep my boats floating because my boats went from -- the licences went from \$120,000 in value to not being able to give them away today. I have -- I have to pay insurances for those boats, I have to pay licence fees for those boats, I have to pay moorage for those boats, yet I can't take those boats out fishing.

I cannot believe today that I will be fined and have to pay a fine, based on the fact that I have gone to Fisheries several times and said well, you didn't let me fish this year, why should I pay you \$800 to renew my licence for something that I'm not even going to fish for this year. With my four licences, I don't know how many times in the past ten years that I had to pay those \$800 fees and not be able to even

set a net.

And so I've gone out and protested in -- in a proper manner, which -- and I'll have to say to Phil here, when he said that there wasn't talk about burning boats and -- and stuff, that's not true, because I got to the point where I said let's go out there and rip their nets out of the water.

It's -- it's a conservation issue here. They are not -- it's conservation for Natives. Let's get this straight. It was never conservation, because they -- DFO says conserve -- converse -- con --

THE COURT: Okay.

MR. EIDSVIK: Conservation.

THE ACCUSED RUSSEL JACOBSON: Conservation, pardon me. Yet they are still fishing when there's an issue. So it -- it really isn't. And --

THE COURT: Mr. Jacobson, you weren't present while this case was argued. I don't know whether you've read the decisions, not just that I wrote, but of the appellant courts and the Supreme Court of Canada, and I appreciate that that's the way that you see it, and I appreciate that that was the way that it was argued, but the decisions of the courts -- and I'm not going to get into a debate with you, I'm just telling you the state of the law, are that -- those arguments didn't succeed. I know you thought they would, you've told me you thought they would --

THE ACCUSED RUSSEL JACOBSON: Yeah.

THE COURT: -- but they didn't succeed. And I'd just ask you -- or suggest to you that making the arguments again today --

THE ACCUSED RUSSEL JACOBSON: Yeah.

THE COURT: -- aren't -- isn't going to help in what I have to do, help me what I have to do, and that's make a decision about how to dispose of this case now. There have been convictions entered -- and I'm saying this not just to you, sir, but to everyone here, that now what I have to determine is what should be the end result to all of this. Should it be a fine, should it be a discharge? A discharge means there's no record of conviction. So that -- and so -- and I'm not -- I don't want you to stop talking if you have other things that you want to say, but I just -- it's not helpful, I suppose, for me to hear the same thing argued --

THE ACCUSED RUSSEL JACOBSON: Yes.

THE COURT: -- that was argued before. And you weren't here when it was argued --

THE ACCUSED RUSSEL JACOBSON: Right.

THE COURT: -- but it was argued, and --

THE ACCUSED RUSSEL JACOBSON: Okay, Your Honour, thank you. My only thing is -- yeah, a discharge, because I've paid thousands of dollars of licence fees when I wasn't even able to go fishing. So as far as I'm concerned, I've paid more --

THE COURT: Okay.

THE ACCUSED RUSSEL JACOBSON: -- than a fine.

And one last thing. What's going to happen the day that another group comes in and you show up to work and they say I'm sorry, you're not welcome at the bench today because these people were here before you and you're not needed today, so you can sit outside in the cold, and if there's too many cases, we might be able to bring you in, but the way it's looking now, you're in the background.

THE COURT: You see, what -- just before you sit down, sir --

THE ACCUSED RUSSEL JACOBSON: Sorry.

THE COURT: -- one of the things that judges have to do is not personalize the cases that are before them, and what you're trying to do is get me to personalize it. And I can't do that. I can listen to what you have to say --

THE ACCUSED RUSSEL JACOBSON: Yes.

THE COURT: -- and what you've said to me is that fishing is your passion and that it's your life.

THE ACCUSED RUSSEL JACOBSON: Yes.

THE COURT: It was your livelihood as well. It's no longer, you've had to put out money that you haven't gotten back. You've had to get a job to maintain your boats, to maintain the licences, and once again, although you didn't use the word, the frustration that is in you --

THE ACCUSED RUSSEL JACOBSON: Yes, I agree.

THE COURT: -- is sort of oozing --

THE ACCUSED RUSSEL JACOBSON: Showing.

THE COURT: -- out of you. And that's okay, but the reason I'm summarizing that for you is because I want you to know that that's what I took out of what you've said, but I'm not going to personalize it in the sense that I can't step down and become you --

THE ACCUSED RUSSEL JACOBSON: Yes.

THE COURT: -- because I'm not. And even if I said that I was going to or I could, that would be dishonest, because I can't. I'm not you.

THE ACCUSED RUSSEL JACOBSON: Yes.

THE COURT: I don't know what you've been through, other than --

THE ACCUSED RUSSEL JACOBSON: Okay.

THE COURT: -- what you've told me. Okay?

THE ACCUSED RUSSEL JACOBSON: Yes. Thank you.

THE COURT: Thank you. Sir?