



Nfld. & Labrador

## Reporter's Charter rights not violated, mischief trial to proceed, judge rules



Justin Brake was charged after entering Muskrat Falls work site to cover protest in 2016

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A date for Justin Brake's trial will be set on Jan. 15, 2020. (Jacob Barker/CBC)

A judge has ruled that reporter Justin Brake's Charter rights have not been violated and the criminal charge of mischief against him will proceed.

Brake was charged with mischief over \$5,000, after he entered the Muskrat Falls site to cover a protest that shut down work at the site in the fall of 2016.

In November, Brake's lawyer, Geoff Budden, argued for a stay of proceedings under the Charter of Rights and Freedoms. At the time, Budden noted that civil charges Brake was facing were dismissed earlier this year by Supreme Court Justice Derek Green.

"Given the findings of Justice Green on the appeal of the contempt matter, where he made very clear findings that Mr. Brake was not doing anything on the site other than covering a story, in those circumstances to run a mischief trial would be to ... unfairly subject, not just Mr. Brake but the entire administration of justice to this lengthy, unnecessary matter that couldn't reasonable result in a conviction," Budden argued in court in early November.



Geoff Budden, Brake's lawyer, had argued for a stay of proceedings related to the criminal charge against his client. (Jacob Barker/CBC)

But on Tuesday, Judge Phyllis Harris said that appeal court decision "does not have the effect of determining the outcome of criminal trial for mischief."

"Mr. Brake has not demonstrated that his Charter rights are being violated as a result of continued prosecution," she said.

## 'Baffled' that Crown proceeding: lawyer

Brake, who was working for the Independent, an online news site, in October 2016, entered the work site alongside a large group voicing concerns about the project. They occupied the site for several days, work was stopped and workers were sent home.

When it comes to the criminal charge against Brake, Budden has previously said, "We're rather baffled that [the Crown] would feel it's in the public interest to proceed with this charge."

- [Lawyer for Justin Brake asks judge to dismiss criminal charge against reporter](#)
- [Reporter Justin Brake mounting charter challenge against Muskrat Falls charges](#)

Crown prosecutor Stephen Anstey had previously argued he did not have to prove that Brake wilfully obstructed work, only that what he did had the effect of obstructing work on the site.

"Mere presence on the property, depending on the character or location, may or may not constitute an obstruction, interruption or interference," Anstey told the judge in November.

A date for the trial will be set on Jan. 15 in Happy Valley-Goose Bay.

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*With files from John Gaudi and Jacob Barker*

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