



Nfld. & Labrador

Reporter Justin Brake mounting charter challenge against Muskrat Falls charges



Supreme Court judge dismissed civil proceedings against Brake earlier this year

[Jacob Barker](#) · CBC News · Posted: Sep 09, 2019 5:04 PM NT | Last Updated: September 9



Justin Brake, seen here in Supreme Court in Happy Valley-Goose Bay in 2017, has filed a charter challenge against criminal charges against him. (Jacob Barker/CBC)

Justin Brake, a reporter charged with mischief after covering a protest inside the Muskrat Falls work site, has filed a charter challenge to ask for a stay of proceedings.

"We're rather baffled that [the Crown] would feel it's in the public interest to proceed with this charge," Brake's lawyer Geoff Budden said Monday morning in provincial court in Happy Valley-

Goose Bay.

Brake, who worked for online news site the Independent 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.



Brake's lawyer, Geoff Budden, says he is baffled by the Crown's decision to proceed with the charges after the decision in civil court. (CBC)

Brake, along with several others, was charged with mischief as well as disobeying an order of the court.

Civil proceedings that were based on the same set of circumstances were also brought against him, but dismissed in March by Supreme Court Justice Derek Green.

In that decision Green said there was a "significant difference" between Brake's situation in the protest and the situation of the protesters and that there was nothing to suggest that Brake was actively engaging in the protest.

"[Judge Green's decision has] been viewed as a decision which confirms the rights of not just journalists so much but the rights of all of us as citizens to have journalists being able to cover important stories such as Muskrat Falls," Budden said.

Higher burden for criminal conviction

Budden also said he would be arguing the charges are an "abuse of process" because the Crown is "trying to re-litigate the same facts and just hoping to come to a different result."

The application, which the court is scheduled to hear Nov. 7, cites two sections of the Charter of Rights and Freedoms, including the section that lays out freedom of the press and other media of communication, but Budden noted the burden of proof for a criminal conviction is much higher than the civil standard, which in this case has already established in Green's decision.

"The Crown has to go well beyond a civil standard here," Budden said. "They have to establish, really, the counterpoints on a criminal standard of beyond a reasonable doubt."

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