



# MEDIA STATEMENT

## CRIMINAL JUSTICE BRANCH

July 18, 2013

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### **Crown Files Appeal in Three Cases**

Victoria - The Criminal Justice Branch, Ministry of Justice, announced today that it recently filed appeals on behalf of the Crown with the Court of Appeal for British Columbia in three separate cases. Each case has attracted public attention and/or engages matters of public interest and the Branch considers it appropriate to provide a status update.

#### **1. R. v. Widdifield - British Columbia Supreme Court (Nanaimo) Court File 74552-1 Court of Appeal File CA040995 (Vancouver)**

On June 25, 2013, the Crown filed an Appeal against a Judicial Stay of Proceedings that was entered in this case. The Crown alleges that the trial judge made a legal error in ruling that Mr. Widdifield's constitutional right to be tried within a reasonable time was violated.

The Crown will ask the Court of Appeal to order a new trial against Mr. Widdifield.

#### **2. British Columbia Provincial Court (Western Communities) Court File 16939 Court of Appeal File CA041009 (Vancouver)**

On June 27, 2013, the Crown filed an Application for Leave to Appeal and Appeal Against Sentence in this case. The respondent pleaded guilty to 3 charges of incest and 1 charge of sexual interference. His name cannot be released, in order to protect the identities of the complainants. The respondent was sentenced to 5 years in prison to be served concurrently on each charge of incest, and 2 years to be served concurrently on the charge of sexual interference.

The Crown alleges that the sentencing judge erred by failing to impose a sentence which was proportionate to the gravity of the offences and the degree of responsibility of the offender, and by imposing concurrent sentences on all 4 charges.

The Crown will ask that Court of Appeal substantially increase the overall prison term.

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### ***Branch Vision***

***Courageous, Fair and Efficient – A Prosecution Service that has the Confidence of the Public.***

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**3. R. v. Klem - British Columbia Supreme Court (Victoria) Court File 157317  
Court of Appeal File CA041027 (Vancouver)**

On July 3, 2013, the Crown filed an Application for Leave to Appeal and Appeal in this case. Mr. Klem was convicted of offences under the British Columbia Wildlife Act, following a trial in Provincial Court. The offences arose out of the shooting of a bear in a residential area of Port Renfrew. Mr. Klem appealed his convictions to the British Columbia Supreme Court. His convictions were overturned and the charges dismissed. The Crown's appeal is from this latter decision.

The Crown alleges that the judge who decided Mr. Klem's appeal in British Columbia Supreme Court made legal errors by relying on facts that were not in the record of trial proceedings, by overturning findings of fact made by the trial judge, and by misinterpreting the relevant provisions of the Wildlife Act.

The Crown will ask that the convictions be restored.

In accordance with Criminal Justice Branch policy, the Crown will generally only initiate an appeal from acquittal, a dismissal of charges or a judicial stay of proceedings where:

1. the basis for an appeal involves a question of law alone;
2. a reasonable argument can be made that the verdict would not necessarily have been the same if the error in law had not been made; and
3. the public interest requires an appeal.

The Branch will generally only initiate an appeal from sentence when it has concluded, in light of the facts of the case and the applicable law, that a reasonable basis can be advanced for seeking a variation of the sentence imposed. A copy of the Branch's Policy on appeals can be found at <http://www.ag.gov.bc.ca/prosecution-service/> .

It is, of course, up to the appellate court to determine in each case whether the Crown's appeal should be allowed. No hearing dates have yet been confirmed for the three appeals. As these matters are now before the Court of Appeal, the Criminal Justice Branch will make no further comment.

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