

Court file No. SC23-00007950-0000

Superior Court of Justice
Toronto Small Claims Court

B E T W E E N

JEREMY MacKENZIE

Plaintiff

Fred Wu

and

EZRA LEVANT ET AL.

Defendants

Sheldon Inkol

Reasons for Judgment and Decision

This matter was heard on March 2, 2026 and March 27, 2026.

F. Rosenberg D.J.

Overview

[1] The plaintiff Jeremy Mackenzie describes himself as an entertainer, podcaster and activist. He is a father to 3 children, a social media figure and he served in the Canadian Armed Forces from 2003 to 2017.

[2] The plaintiff alleges that the defendants defamed him in a 41 minute podcast episode broadcast on July 25, 2023 titled, "I'm in Lethbridge as justice hangs in the balance for the Coutts 4 truckers. By way of background, the "Coutts 4" refers to 4 men who were arrested in 2022 following a blockade at Coutts, Alberta.

[3] Mr. Mackenzie gave notice regarding the remarks to Mr. Levant on August 21, 2023 and filed this claim on October 17, 2023 alleging defamation and damages in the amount of \$35,000.

[4] The plaintiff claims that the defendants July 25 2023 podcast is defamatory because of the following 3 comments;

That Mr. Mackenzie founded an explicitly racist organization - at minute 33 and 15 seconds

That Mr. Mackenzie is a government agent - at minute 35 and 42 seconds -

That Mr. Mackenzie concocted a social movement to entrap the Coutts Four in a criminal offence- At minute 39 and 19 seconds

[5] The defendants filed a defence on November 20, 2023. They argue that the statements made in the podcast do not imply what the plaintiff claims. They raise the defense of fair comment and that that the comments were either true or a reasonable opinion, relate to public interest, and in any event, that the comments would not harm the Plaintiff's reputation.

The legal test for defamation

[6] A plaintiff in a defamation action is required to prove three things to obtain judgment and an award of damages: (1) that the impugned words were defamatory, in the sense that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person; (2) that the words in fact

referred to the plaintiff; and (3) that the words were published, meaning that they were communicated to at least one person other than the plaintiff.

[7] If these elements are established on a balance of probabilities, falsity and damage are presumed, and the onus shifts to the defendant to advance a defence in order to escape liability.

Grant v Torstar Corp., 2009 SCC 61 at para 28

Analysis

[8] Did the statements that the defendants made plainly or implied by innuendo lower Mr. Mackenzie's reputation in the eyes of a reasonable person?

[9] A defamatory statement is one which has a tendency to injure the reputation of the person to whom it refers to lower him in the estimation of right thinking members of society generally and in particular to cause him to be regarded with feelings of hatred contempt, ridicule, fear dislike or disesteem. The statement is judged by the ordinary thinking member of society.

Colour Your world v Canadian Broadcasting Corp. (1998) 38 OR 3(d) 97 CA

[10] Jeremy MacKenzie testified that he felt frustrated and depressed. He explained that he was extremely upset and stressed over the defendants false statements. The defendants admit that they made, but for comment item # 2 where the defendants used the word "Fed" and not word government agent, the statements and that the words were communicated.

#1- Did the statement that the Plaintiff has set up a racist organization lower his reputation in the eyes of a reasonable person?

[11] Turning to the ordinary dictionary meaning, racist is defined as, “of relating to, or characterized by the systemic oppression of a racial group to the social, economic, and political advantage of another.”

[12] The defendants state in reference to Diagon, that Jeremy Mackenzie “has set up an explicitly racist organization. I think it’s as a joke.”

[13] Alleging that one is responsible for setting up a racist organization, when judged by the standard of an ordinary right thinking member of society, is defamatory.

Have the defendants proved that the plaintiff has set up an explicitly racist organization?

[14] To succeed on a defence of justification the defendants must prove that the words are substantially true.

[15] Based on Mr. Mackenzie’s admissions and exhibits entered and the excerpts set out below, there is enough evidence to support a defence to the extent that the statement, even with Mr. Mackenzie’s included responses and explanations, is substantially true and that the overall impression is as stated by the defendants.

[16] I find that the defendants have, based on information presented to the court and noted below, discharged the onus of proving on a balance of probabilities that the plaintiff has founded an explicitly racist organization.

[17] The plaintiff testified and explained that Diagon is not an organization. It is, as he explains, a community network or fan club. He said that its figure head is that of a goat and that it started as joke that came out of his imagination that it took off organically and that it’s about a mythical land. He explains that it is just satirical and that it gained the interest of people who identified with him and his podcast community of people who did not support the government.

[18] Entered into evidence by the defendants are news reports and sworn testimony found in the *Rouleau Commission Report* (“Rouleau Report”) Exhibit D dated November 4, 2022 investigating the use of the *Emergencies Act* as follows;

[19] Mr. Mackenzie testified at the Rouleau Commission that;

- In about January 2022 what became sort of joke came into being as a concept and later followed up with a flag “as a mechanism for branding symbolism kind of thing for, you know, community members and it started to become synonymous with myself and the podcast kind of as a --- as I guess a branding mechanism that people would, you know, display and they could buy patches, stickers, and things like this to basically denote that they’re fans of mine. And that he is associated with Diagonon and the Diagonon flag as it came out of his “imagination”. It is now an international community of Jeremy Mackenzie’s podcast fans.

pg. 148 Rouleau Report lines 11 – 18, line 24

- He admits it originated when he drew a line over the continent of North America from the southeast to the Northwest of the continent, as a kind of parallel universe.

pg.147 Rouleau Report lines 21- 23

- He digitally sent an unsigned letter to the Senate entitled “Diagonon’s List of Demands to the Canadian Senate” several days before the Emergency Act was revoked.

pg. 140 Rouleau Report lines 6- 9

- With respect to Diagonon, Jeremy Mackenzie views himself as, “The central figure from which the rest of it sort of orbits”.

pg. 189 Rouleau Report lines 17-19

- That Diagonon, fairly synonymous with the “Plaid Army”, is a “kind of branding mechanism, a way for-- to unite community followers and so on”. And that he was “just trying to create a--- you know, an avenue for them to pursue.”

pg. 149 Rouleau Report lines 2-6, pg. 150 lines 14-15

- Diagonon has followers in several countries and holds community and regional meet and greets, BBQ's, one held in 2020, 2021 and 2022, and family gatherings. (pg. 149, pg. 150)

pg. 149 Rouleau Report line 17, pg. 150 lines 24-25

- That he and some of his friends, people who are fans of his, sell Diagonon merchandise online.

pg. 154 Rouleau Report line 3

- He posts on YouTube and Telegram under the name Raging Dissident.

pg. 142 Rouleau Report line 19-22

- That on February 15, 2022, Jeremy Mackenzie said that he could not wait until the Diagonon flag was seen as a hate symbol but explains that he said it in a kind of tongue in cheek way and that it was part of his comedy and an inside joke.

pg. 153 Rouleau Report line 11-14, page 154 line 1

- That the Diagon community refers to itself as bigots explaining that it did to take power out of the word and a, “Way of shrugging it off”

pg. 151 Rouleau Report lines 20- 23

- The RCMP has described Diagon, in documents received by the Commission, “as a militia like network with members that are armed and prepared for violence” and has “supporters that express sentiments akin to accelerationism, viewing a coming collapse or civil war as necessary to right the course of the country”. (pg. 155). In response Jeremy Mackenzie explains that he is under RCMP scrutiny because of his criticism of them. (pg. 155, pg.156) but admits that he doesn’t know what the OPP and RCMP are relying on when they make their assessments. (Pg. 157)

pg. 155 Rouleau Report lines 26-28, pg. 156 lines 1-3, pg.156 10-13,pg. 157 lines 9-12

- That superintendent Patrick Morris head of OPP’s Intelligence, and not RCMP, Bureau testified at the same commission that “Diagon is an extremist entity that holds extremist views.” Jeremy Mackenzie, denied the allegations because according to him, intelligence is relying on negative articles and the Canadian Anti - Hate Network.

pg. 157 Rouleau Report lines 22-27, pg. 157 lines10-12

- Jeremy Mackenzie has handed out business cards with the Diagonon logo on them to promote his media and what Diagonon is doing.

pg. 160 Rouleau Report lines 24-26

- According to a CSIS document, “In Jeremy Mackenzie’s Own Words” said, “This is the good guys versus the bad guys... The showdown has finally begun in Canada... you could go be a part of the story now.”. The following quote is “This is the beach get yourself out there and that “all justice will be non-binary and shows a gun a noose and the word both?” Comments made with respect to the protests in Ottawa or Coutts as a call to the community using terminology that was familiar to his audience to encourage them to get involved. The terms are connected to D-Day.

pg. 174 Rouleau Report lines 13-18, lines 27-28,pg. 175 line 22-25

- Chris Lysak, one of the Coutts 4 arrested is a member of the Diagonon community and he has been a long time fan of the podcast and he met him in Saskatchewan.

pg. 177 Rouleau Report lines 19-24

- Public Safety Minister The Honourable Marco Mendicino said at a news conference that “Several of the individuals at Coutts have strong ties to a far-right extreme organization with leaders who are in Ottawa.” (pg. 211). Mr. Mackenzie has ties to Chis Lysak who he’s met twice.

pg. 211 Rouleau Report lines 18-25

- Entered at the Commission is document published by the Canadian Anti-Hate Network, although Mr. Mackenzie disagrees with it, that states, “Diagolon, also referred to as Plaid Army, as a conspiracy-based network that is increasingly evolving into a militia compromising neo-fascists who anticipate a violent revolution which they will seize power.” Jeremy MacKenzie responds that he, “cannot control how people interpret or don’t interpret” his messaging or any number of things.

pg. 205 Rouleau Report 23-26

News Media reports

[20] Entered into evidence are media sources including;

- **Exhibit G- Globe and Mail** article published November 4, 2022, *“Creator of far right, anti government group testifies that he received police information during convoy protests.”* The article refers to a February 21 brief compiled about Diagolon prepared by CSIS which includes a number of Mr. Mackenzies’ comments about the Ottawa protest such as, “This is the good guys versus the bad guys [Canadian government]”. It also indicates that he said the “showdown” has finally begun and said “This the beach, get yourself out there.” The document tabled with the Commission states that the “the beach” is a Diagolon reference to the Second World War and D-Day. Mr. Mackenzie states that he did not mean it in a violent context. And that “A section of the brief titled “The Violent Rhetoric of Diagolon”, is redacted but a graphic included next to it says “all justice will be non-binary and shows a gun, a noose and the word “both?”

- **Exhibit A- CTV news** report published February 17, 2022 *“What is the Diagonon extremist group and what does it want?”* CAHN deputy director points out that “violence is a core element to Diagonon, citing Mackenzies’ motto repeated in his chats and streams -“by gun or by rope”-describing how his enemies can choose to die”
- **Exhibit C- Toronto Star** article published September 26, 2022, *“Right wing activist Jeremy Mackenzie meant no harm with joke about raping Peirre Polievre’s wife”* during a live broadcast about raping Pierre Poilievre’s Latin American wife. He explains that it was a joke made when drunk and it’s beneath him to condemn comment from such a venue.
- **Exhibit B-CBC article**– *“RCMP investigating rape threat against Pierre Poilievre’s wife.”* The report continues “Jeremy Mackenzie the leader of the Canadian far right group Diagonon made the threats in an online stream on the social media app Telegram while speaking with a guest, Alex Vriend.” Jeremy Mackenzie said, “Let’s rape her.” “It’s not really a sex thing. It’s like we just want to show people that we can do things to you if we want to. It’s a power move.”
- The article contains comments from Barbara Perry director of the Center on Hate Bias and extremism stating that Diagonon aims to establish a “white ethnonationalist state” which would run diagonally from the Pacific Northwest through Canada to Florida. And that the group’s narrative is violent and aggressive – and may inspire violence”.
- It notes that an Instagram account bearing Mackenzie’s name describes him as a “Sub-standard podcaster, Sit -down comedian super villain, Sardonic Emperor of Diagonon. Very Scary.”

#2- Did the statement that the Plaintiff is a government agent lower his reputation in the eyes of a reasonable person?

[21] The dictionary defines “Fed” as short for federal agent, officer, or official. The plaintiff testifies that he has never been a government agent and that he has never been employed by CSIS.

[22] The defendants comment in their podcast that, “Isn’t it odd that the leader of Diagonon isn’t in jail for 500 days but these pawns on the chessboard are in jail for 500 days. I tell you. It sure looks like a fed to me.”

[23] The defendants go on to say “Is it absurd to say that Jeremy Mackenzie is the Ray Epps of Canada?”, and that, “The man who actually led Canada’s most notorious hate group was working for the government”.

[24] The statements in themselves, or by innuendo, can be seen as defamatory in the plaintiff’s own anti government community.

[25] But the test is whether the term “Fed” or government agent lowers the plaintiff’s reputation in the eyes of a reasonable person. Because the term Fed or government agent, as understood by the reasonable person outside of the plaintiff’s anti government community, is not negative, damaging, shameful or disgraceful, it is not defamatory.

[26] If I am incorrect in my decision that being called a Fed or government agent is not defamatory, I will address whether the statement is true based on the evidence. The law is clear. If the plaintiff proves the required elements under *Grant v Torstar*, the onus shifts to the defendants to advance a defence to avoid liability.

[27] On review of Jeremy Mackenzie’s testimony found in the *Rouleau report* and additional documents I find that the defendants have discharged the onus.

Have the defendants proved that the plaintiff acted as a government agent?

[28] He has reported extremist behavior to the authorities, in this case the Mounted Police in the past. (pg. 213 Rouleau Report) Jeremy Mackenzie confirms that in the fall of 2018 he was alarmed by comments made by an online group identifying itself as “Awakes” and he responded by “immediately calling the mounted police about it.” And that he was bringing it to their attention and said, “Because if I were you, that it something that would concern me.” (page 214 Rouleau Report).

pg. 213 Rouleau Report lines 24-25, pg. 214 lines 4-18

[29] Jeremy Mackenzie has made “numerous overtures and offers to speak to the Canadian Security intelligence Service to try and shed some light on, you know, myself and this community that they seem so concerned about”.

pg. 197 Rouleau Report lines 1-5

[30] Mr. Mackenzie confirms that he was willing to have a continuous relationship with law enforcement to assist in identifying legitimate threats to public safety. Jeremy Mackenzie confirms that “If there was anything for me to give them or assist them in any way, I would have, yes.”

pg. 215 Rouleau Report lines 8-9

[31] This evidence comes from the Plaintiff taken under oath. If I am incorrect in my decision that the comment is not defamatory, the defendants have proven on a balance of probabilities that the publication was responsible because there is evidence to support a defence of the truth of the comments.

#3 Did the statement that the Plaintiff concocted a social movement to entrap the Coutts Four in a criminal offence lower his reputation in the eyes of a reasonable person?

[32] In my view it is important to look at the podcast as a whole to determine if the allegation is defamatory instead of isolating a phrase or 2. The plaintiff testified that he wasn't involved with the Coutts 4 and the fact that he wasn't called to testify at their trial confirms it.

[33] The defendants prefaced its comments and expressed it as a "theory", based on what it has seen in the media, and with its conversations with one of the family members. They take the position that these young men actually went too far into Jeremy Mackenzie's scheme weird fake group. And so the police and the prosecutor said, "Uh huh that's the conspiracy. That's the connection. That's the group."

[34] It continues "And he may be the reason that they're convicted. He gave the prosecution what they were missing. He gave them the connection. He invented the fake Hell's angels, the fake Al Qaeda."

[35] In my view the statements should be read together in order to understand the meaning of the impugned words. The comments are connected such that it is clear that it is the defendants theory that the Coutts 4 read too much into the idea of Diagon and it was the Crown somehow used it as it saw fit. It is important to look at the publication as a whole and not at an isolated phrase.

Mantinti v Smith Lyons No. 2 64 OR 3d 516 at para. 11

[36] The impugned words are not capable of the meaning that Mr. Mackenzie created Diagon to trap the Coutts 4 and to be the one responsible for criminal charges. The whole tenor of the article is about the Coutts 4 and their transformation from country boys into the Coutts 4 by virtue of their own self expression or "LARPing", live action role play. The defendants state, "Except for one day in Lethbridge and in Coutts Alberta

their make believe came true and they weren't just talking about Diagon, there actually were cops everywhere." Going too far into Jermy Mackenzie's scheme weird fake group cannot be strained to mean, that Jermy Mackenzie created the group to entrap the 4 men who were charged. In my view, the impugned words are clearly incapable of the meanings pleaded in the statement of claim.

[37] Moreover, at page 205 line 23 of the *Rouleau report*, Jeremy Mackenzie acknowledges that tens of thousands of people follow him and his social media and that he cannot control "how people interpret or don't interpret" things and that seems to be what the defendants are saying in this comment.

[38] The defendants end the podcast with, "Well there are people who believe that terrible wrongs with respect to the Coutts 4 are going on." "We'll see who's right in a year's time."

[39] The statements do not by innuendo or by their words state that Jeremy Mackenzie set up a social movement to entrap the Coutts 4.

[40] The words in their neutral and ordinary meaning are not defamatory.

Costs

[41] As the successful party, the defendants are entitled to costs and reasonable disbursements as per s. 29 of the *CJA* capped at 15% unless there was unreasonable behavior. The plaintiff claimed \$35,000.00. The plaintiff shall pay to the defendants costs of \$5,250.00 plus court filing fees and disbursements of \$500.00 for a total of \$5,750.00.

Order

[42] The plaintiff's claim is dismissed.

The plaintiff shall pay costs and disbursements of \$5,750.00 to the defendants.

D J Rosenberg

Deputy Judge F. Rosenberg

Released to Parties - April 2, 2026

COURT FILE NO. SC 23-7950-0000

DATE 2026-04-02

ONTARIO
SUPERIOR COURT OF JUSTICE
SMALL CLAIMS COURT

BETWEEN

JEREMY MacKENZIE PLAINTIFF

And

EZRA LEVANT ET AL.
Defendants

REASONS FOR JUDGMENT
