



B.C. Supreme Court Justice Catherine Bruce is seen in the background of this artist's sketch during court appearances by John Nuttall, left, and Amanda Korody, right, last February. After being convicted of terrorism, the pair were freed when Bruce ruled the RCMP entrapped them. *FELICITY DON/CP*

# JUSTICE'S SHARP RULING NO SURPRISE TO MANY

Jurist in Nuttall-Korody case known for brains, tough decisions

BETHANY LINDSAY

When Justice Catherine Bruce ruled last month that Mounties had entrapped two marginalized people in a homegrown terrorism sting, it felt like Canada's men and women in red were being put on notice. But it wasn't the first time the judge has challenged the police or the powerful.

After all, the B.C. Supreme Court justice, who trial lawyers describe as sharp but careful, was once the subject of an outburst from a "profoundly disappointed" provincial cabinet minister after another decision that censured police tactics.

Dating back to her law school days in the 1970s, those who know Bruce say she has always been a gutsy proponent for justice, and they are not surprised by her decision to toss out the guilty verdicts against John Nuttall and Amanda Korody.

"I don't always agree with the way she applies the law," said Access Pro Bono Society director Jamie Maclaren, who has argued and lost in Bruce's court. But, he added, "She's sometimes comprehensive to the point of being fairly cautious, so I don't think she took a signifi-

cant decision like this recent stay of proceedings lightly."

A willingness to make unpopular decisions is one hallmark of a good judge, according to former justice Wally Oppal, who has known Bruce and her husband for years. He said that while some may disagree with Bruce's ruling in the Canada Day 2013 bomb plot, her judgment was both well-written and well-reasoned.

"In difficult controversial cases such as this, you're always going to upset some people, but it's important that you do the right thing, according to your conscience, on the facts," Oppal said.

Oppal was B.C.'s attorney-general in 2008 when Bruce's judgment in the trial of a suspected marijuana grower earned the ire of then-solicitor general John Les, as well as RCMP and Vancouver police brass.

In that case, Surrey Mounties had arrived with a warrant to search a house for marijuana plants, but knocked just once on the front door, then waited two minutes before breaking down a side entrance with a battering ram. Bruce described the entry as "violent and abrupt" and ruled that police had created a dangerous situation for

themselves and the suspect while denying him his charter right to a proper warning.

Les urged prosecutors to appeal the decision, suggesting that Bruce wanted to effectively "tie police hands," and both the RCMP and VPD said they had no intention of changing their practices. But Oppal publicly disagreed with his cabinet colleague, saying that Bruce was just following the law. And history sided with him; the case file was quietly closed later the same year and Bruce's decision still stands.

Much smaller cases of state overreach have earned the justice the respect of defence lawyers such as Kyla Lee, who recently argued before Bruce for the first time. The judge ruled in favour of Lee's client, overturning an immediate roadside driving prohibition after finding the police breath tester was unreliable.

"I found that she was incredibly smart," Lee said. "She's also able to really balance these ideas of the way that the government... is using the system to its advantage without affording opportunities for anybody to benefit from that as well."

Long before Bruce was in judges' robes, she was a student at UBC's

law school, where she shared classes with a gaggle of young people who would go on to become prominent public figures. When she graduated second in her class in 1976, she stood alongside a future premier (Ujjal Dosanjh), the man who would become Canada's first openly gay MP (Svend Robinson), and a budding LGBTQ2 activist icon (Barbara Findlay), to name a few.

Her former classmates remember her with great respect, and say she was a popular student.

"She was a star — smart, progressive and articulate," Robinson wrote in an email. "A pleasure to know, and a fine judge."

And even though Dosanjh didn't know her well, he remembers that the future justice stood out.

"She was extremely bright and ready to go the extra mile to do the right thing," Dosanjh said.

Bruce would be appointed to the provincial court bench in 1998, after earning a Master of Laws from the London School of Economics in 1978 and then practising civil, labour and criminal law in a variety of positions. She also directed a law society study into gender equality in the justice system, finding that

“It's important that you do the right thing, according to your conscience, on the facts.”

discrimination against women was rampant.

The new judge's "prodigious energy" was trumpeted in an article in the legal magazine *The Advocate* that marvelled over how she was able to manage a practice while raising a family, keeping up speaking engagements, and running marathons.

"This goes some way to explain the fact that she went into labour with her second child while riding a bicycle," the article reads.

Although she spent only eight years in provincial court, defence lawyer David Milburn recalls appearing in her Burnaby courtroom on numerous occasions. He said she was always respectful of lawyers on both sides of the argument, which earned her the respect of Crown and defence counsels alike.

Her appointment to B.C. Supreme Court came in 2006, and she has since handled a number of high-profile cases, including the recent trial of Reza Moazami, whom she sentenced to 23 years in prison for trafficking underage girls for sex. Although she had been accused of being soft on criminals in 2008, this time she chose to go above and beyond what even Crown prosecutors had asked for, adding six years to their recommended sentence.


Bruce's patience appeared to be tested during the trial that saw a rotating cast of defence lawyers, as some withdrew from the case and others were fired by Moazami. The judge often had pointed words about what looked like delaying tactics by Moazami, and blasted him in her written decision for "fabricated," "internally inconsistent," "incredible and even fanciful evidence."

But while her judgments sometimes contain stinging and highly quotable indictments of accused criminals, or even police officers, Bruce isn't one to relax the formal atmosphere of a courtroom, according to defence lawyer Michael Welsh. And she is unlikely to share a joke with counsel or witnesses.

The Mounties have remained relatively quiet in response to Bruce's decision in the Nuttall-Korody case, choosing only to issue a written statement that the force respects the decision and is consulting with prosecutors about the possibility of an appeal.

If the judgment stands, however, it will be the first time in North America that a terrorism case has ended with a ruling of police entrapment.

*blindsay@postmedia.com*  
*Twitter.com/bethanylindsay*

  
**ROLEX**  
OYSTER PERPETUAL  
COSMOGRAPH DAYTONA

**MONTECRISTO**  
OAKRIDGE CENTRE 604.263.3611  
HASTINGS AT HORNBY 604.899.8866

