



## Judge's story illustrates Cknucwentn First Nations Court's impact

In the movie *Dances with Wolves*, Kicking Bird tells John Dunbar "We have come far, you and me." Speaking at the tenth-anniversary celebration of the Cknucwentn First Nations Sentencing Court in Kamloops on May 6, 2023, BC Provincial Court Judge Raymond Phillips said that line comes to mind when he thinks of the Cknucwentn Court.

Judge Phillips, a member of the Lytton First Nation, went on to tell a story about acting as the defence lawyer for a woman of the Statimc Nation charged with assaulting her husband with a steak knife. This was in the 1990s, before the Supreme Court of Canada's Gladue decision, Gladue reports, and the Criminal Code amendments requiring judges to consider the background of Indigenous people and, when possible, find alternatives to jail when sentencing them. His client had a tragic background including generations of residential school trauma, a traumatic childhood, and abuse by her previous and current partners.

It appeared that a jail sentence was a certainty. His requests for a circle sentencing were rejected because of the significant time and resources required to conduct one at that time. His request to have his client testify about her background was initially opposed by the Crown prosecutor who thought the information could be provided in her lawyer's submissions, but Judge William Blair allowed the woman to testify. After hearing her evidence, the Crown joined the defence in asking for a conditional sentence order, which was new at the time, and the judge imposed it.

Judge Phillips, who was the first duty counsel in the Cknucwentn First Nations court in 2013 and has presided in it since his appointment as a judge in 2019, continued:

"Today is a different day.

Today, with the full support of the court, elders, probations, Crown, defence, and communities, we are charting a new course in dealing with Indigenous peoples. Where jail was once a certainty, it now a last resort. Now we do the work necessary to find harmony and balance in the lives of the people who appear in our courts.

Today we achieve accountability through collaboration and understanding.

Today we are making a positive difference in the lives of many by having elders present who will listen and guide them to a safer place so that they can become

productive members of our society. While we do not have the hard statistics, I and anyone else who works in our Indigenous Courts, know that our goal of reducing recidivism is being met.

This is hard work, as it should be.

We know we are helping youth overcome obstacles in life, school, and family.

We know we are helping parents overcome significant trauma in their lives and the lives of the generations that proceeded them.

We know we are helping young men and women overcome anger, addiction, homelessness, and dysfunction.

As I have said many times, this work makes us better as community. It makes us better judges, better lawyers, better clerks, better schedulers, better sheriffs, better elders, and better people.”

Judge Phillips went on to recognize the contributions of judges, lawyers, probation officers, judicial case managers, sheriffs, court clerks and other Court Services staff, as well as the Aboriginal Justice Committee and Tk’emlups Nation, to initiating, building, and maintaining the court.

He added:

“At the heart of our court are the elders who have generously given their time, shared their knowledge, and provided guidance to not only those appearing in court but to all who are present and witnessing its proceeding. The role of elders in this court is critical to its operation and essential in its success. We lift all of you up and say “Kukstemcw”.

I want to pay special recognition to two elders who have been with this court from the beginning. Elders Muriel Sasakamoose and Diane Sandy. There can never be enough praise, honor, respect, and kukstemcw’s for the work you do.”

During the ceremony, the court’s elders presented ceremonial blankets to Judges Stella Frame, Linda Thomas, Raymond Phillips, lawyers, and court staff for their contributions to the court. BC Court of Appeal Justice Leonard Marchand also received a blanket in recognition of the time he spent presiding in the court while he was a Provincial Court judge.

As the celebration’s lively MC, Ms. Sasakamoose joined other elders in drumming and entertained everyone with her comments and jokes.

The evening was also her 80th birthday!

[R. v. Gladue](#) Supreme Court of Canada decision

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