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Raw milk and toast

Ontario farmer was found guilty of contempt of court for defying an order to stop selling unpasteurized milk

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Tyler Anderson/National Post

in Newmarket, Ont.

Moments after a rebel milkman was convicted of contempt of court charges as part of his ongoing battle to sell milk straight from a cow's udder, the dairy farmer and his supporters celebrated by sauntering out the back door of the courthouse and toasting their defeat with glasses of unpasteurized milk.

"Cheers to the Queen," said Michael Schmidt, noting that the monarch "still drinks raw milk."

Mr. Schmidt was convicted yesterday for defying a court order by continuing to pull up to local parking lots in his big blue bus and sell raw milk from his 30 cows.

The farmer, whose supporters say they have raised \$120,000 for his defence, is eager to confront Canadian authorities, noting that Canada is the only country in the G8 that requires pasteurization of all milk. He faces 22 charges at another trial here next January, following a raid on his farm by armed Ministry of Natural Resources officers in 2006.

In court yesterday, Mr. Justice Cary Boswell of the Ontario Superior Court of Justice spoke highly of the accused, and appeared reluctant to punish him. Mr. Schmidt, a tall man with a broad back wearing a flat wool farmer's cap, compared himself to Mahatma Gandhi and Martin Luther King, Jr.

"Martin Luther King kept going until blacks had the same rights as whites," he said, as about 30 supporters, some wearing Birkenstocks, sat and stood behind him in the courtroom.

For 14 years, Mr. Schmidt, who grew up in Germany, has struggled for the right to sell

unpasteurized milk, forbidden under laws governing the production and sale of milk. At present, he says 150 families each own a share in one of his 30 cattle, who graze on pasture in Grey County about 200 kilometres northwest of Toronto. The shares allow each family to a share of a cow's milk production.

David Pickett, a carpenter from Toronto who drinks Mr. Schmidt's milk, travelled 65 kilometres to the court yesterday to show support. "I've been drinking raw milk for years," Mr. Pickett said. "I don't drink pasteurized milk because it bothers my system."

In May, 2007, applying the Health Protection and Promotion Act, this court ordered Mr. Schmidt to stop "offering for sale, selling or distributing, unpasteurized milk and unpasteurized milk products in the jurisdiction of York Region."

But the region did a "flawed" job of trying to prove Mr. Schmidt defied the order, Judge Boswell said yesterday.

"The only way to determine if milk is pasteurized is to test for the presence of alkaline phosphatase," the judge said. "Yet York Region

did no such tests. In fact, York Region did not even seize any of the milk products in question."

The region also hired a private detective to videotape Mr. Schmidt's blue bus, but failed to capture any images of Mr. Schmidt actually selling the milk. The region also did not provide evidence of ownership of the bus.

Fortunately for the prosecutors, Mr. Schmidt convicted himself, the judge said, with comments he made to the Toronto Sun proving that his farm still sells raw milk, saying,

The Post's Gina Mallet calls the verdict in the Michael Schmidt raw milk case

"udder hypocrisy." Read her take on our Appetizer food blog at

nationalpost.com/theappetizer"They can get it Tuesdays and ... Fridays. I never kept it a secret, never ever."

Despite his judgment on the contempt charge, the judge yesterday was reluctant to weigh in on the bigger issue of raw milk rights.

"I want to give you time to digest this ruling," the judge said. "How much time do you need to think the matter through?"

"I don't need any time," said Mr. Schmidt, who is representing himself. "You may proceed as you wish."

Crown prosecutor Dan Kuzmyk then suggested the court fine Mr. Schmidt \$5,000 and about \$50,000 for court costs, and give him "another kick at the can," before sentencing him to jail. "I'm reluctant to sit by and allow Mr. Schmidt to throw himself on the sword of York Region for a political purpose," Mr. Kuzmyk said.

He also accused the farmer of earning substantial income. "This is his business. He sells his milk and he gets \$4 a litre for it."

But the judge countered, "I don't have the impression that Mr. Schmidt is doing this for the money."

He reserved judgment on the sentence. Outside the court, supporters of Mr.

Schmidt handed out flyers for a new documentary about the farmer, "Michael Schmidt:

Organic Hero or Bioterrorist?" premiering Thursday at the Planet in Focus film festival at the Royal Ontario Museum in Toronto.

Judith McGill, a writer who drinks Mr. Schmidt's milk, said, "My passion is to help small family farmers beat the odds and make small farming sustainable and an option. If I get my yoghurt and I'm sick the next day, I can talk to Michael." But she hastily added that his safety record is flawless.

Mr. Schmidt said he is fighting for fairness, not money. "On my tax return, I pay no taxes at all. I am at the poverty level."

With a flourish, he even welcomed some jail time. "That would be a holiday for the farmer because milking the cows and battling the government is a lot of work," he said.

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