

IN THE PROVINCIAL COURT OF MANITOBA

IN THE MATTER OF: ) Mr. P. [REDACTED]  
 Law Enforcement Review Act ) in Person  
 Complaint No. 2010/60 )  
 ) Mr. P. McKenna,  
 BETWEEN: ) for the Respondents  
 )  
 [REDACTED], )  
 Complainant, )  
 - and - )  
 )  
 CONSTABLE [REDACTED] )  
 [REDACTED], )  
 CONSTABLE [REDACTED] )  
 [REDACTED], ) Judgment delivered  
 Respondents. ) October 24, 2012

**RESTRICTION ON PUBLICATION**  
 Pursuant to the Criminal Code of Canada and/or  
 the Youth Criminal Justice Act, there is a  
 restriction on publication regarding this matter.

1 GARFINKEL, P.J. (Orally)  
 2 The onus is on the applicant or the complainant to  
 3 show that the commissioner erred in determining to take no  
 4 further action. The standard to be applied is  
 5 reasonableness. Did the commissioner assess the evidence  
 6 reasonably?  
 7 The file contains the Law Enforcement Review  
 8 Agency file and that file shows what the commissioner's  
 9 investigators did to come to the conclusion that the  
 10 commissioner came to. I have to assess whether or not the

1 conclusion of the commissioner was reasonable. My job is  
2 not to assess the quality of the investigation, but only to  
3 see if the commissioner acted reasonably. I have a very  
4 narrow authority to look into this matter. The commissioner  
5 has the authority to screen the complaints and investigate  
6 them to determine if a public hearing is warranted.

7 In this case, based on the file that exists from  
8 the Law Enforcement Review Agency, I cannot conclude that  
9 the commissioner acted unreasonably. Based on the  
10 investigation detailed in the file, the Law Enforcement  
11 Review Agency file, I believe the commissioner could  
12 reasonably come to the conclusion that he did. And that is  
13 my ruling. I am not persuaded that the matter should be  
14 referred back to the commissioner for further investigation  
15 because I cannot see what further investigation can be done.  
16 So I am not sending the matter back to the commissioner for  
17 additional investigation. That is my ruling this afternoon.

18 MR. MCKENNA: Your Honour, can I ask for a  
19 continuation of the ban on publication pursuant to Section  
20 13(4.1) of the act?

21 THE JUDGE: Any objection to that?

22 MR. [REDACTED]: No.

23 THE JUDGE: Then I will continue the ban on  
24 publication.

25

CERTIFIED COURT TRANSCRIPT  
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