

File No. _____
E-File Name: 2018-04-30WOP [REDACTED] I
Appeal No. _____

IN THE PROVINCIAL COURT OF MANITOBA
WINNIPEG, MANITOBA

IN THE MATTER OF

THE LAW ENFORCEMENT REVIEW ACT
Complaint # 2017-68

AND IN THE MATTER OF

An Application Pursuant to s.13 of the *Law Enforcement Review Act*
R.S.M. 1987, c. L75

BETWEEN

[REDACTED]

Complainant

and

[REDACTED]
[REDACTED]
[REDACTED]

Respondent

DECISION
(Excerpt)
(Pages T1 - T3)

April 30, 2018
Winnipeg, Manitoba

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5

6 The Honourable Judge

The Provincial Court of Manitoba

7 S. Lerner

8

9 D. Johnston

For the LERA Commissioner

10 P. McKenna

For the Respondents

11 M. Lawson

Court Clerk

12

13

14 **Decision**

15

16 THE JUDGE:

It's clear to me that there was something

17 that you had -- and the police officers concede this -- what exactly it was is unclear

18 -- that didn't make its way ultimately to the end of the line with you: the contents

19 of that plastic bag. The contents seem to be --

20

21 MS. [REDACTED]:

Because it's jewellery.

22

23 THE JUDGE:

Yeah, I understand.

24

25 MS. [REDACTED]:

It's a viable commodity. Gold and silver,

26 I mean, my God.

27

28 THE JUDGE:

I understand, I understand. But all of this

29 was before the Commissioner, the Commissioner assessed it. He came to the

30 conclusion that the fact that your property was -- I'll call it "lost" -- at some point,

31 it seems to be clear that that was the case, whatever that property may have been --

32 was obviously a mistake. The question is, does that mistake -- does that -- we'll

33 call it for the sake of discussion "carelessness" potentially on the part of someone,

34 unknown who --

35

36 MS. [REDACTED]:

Excuse me. This is happening time and

37 time again.

38

39 THE JUDGE:

Yeah.

40

41 MS. [REDACTED]:

It is not carelessness.

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THE JUDGE: Okay.

MS. [REDACTED]: It is calculated.

THE JUDGE: Unfortunately, I have to just deal with the facts before me. I don't know anything about the previous instances. I don't know if the Commissioner did either. I just have to look at the decision of the Commissioner and decide whether or not he conducted a reasonable assessment, whether or not it was a rational conclusion that he reached as a result of that assessment. What I've said in terms of the difference between mistakes, and even carelessness, and a finding of abuse of authority stands. I conclude that this was a decision that the Commissioner was able to reach in terms of whether or not what happened here rose to the level of an abuse of authority. And as a result, I'm obliged to dismiss the appeal of the Commissioner's decision in this case. There will continue to be -- I'm not sure if there's been an order yet made with respect to a ban on publication with the officers' names, but --

MR. MCKENNA: I believe there was.

THE JUDGE: All right. Then I'll simply indicate that for obvious reasons that will continue in place.

EXCERPT CONCLUDED

T3

IN THE MATTER OF
THE LAW ENFORCEMENT REVIEW ACT

AND IN THE MATTER OF [REDACTED]

V.

I, KARI SHORT, Court Transcriber, HEREBY MAKE OATH AND SAY that the foregoing typewritten pages being numbered T One (T1) to T Two (T2), inclusive, contain a true and correct transcription of the recorded proceedings taken herein to the best of my knowledge, skill and ability.

[REDACTED]
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