

IN THE MATTER OF:

Law Enforcement Review Act  
Complaint No. 3563

AND IN THE MATTER OF:

An application pursuant to  
S.13(2) of the Law Enforcement  
Review Act R.S.M. 1987, c L75

BETWEEN:

L L

Complainant,

- and -

CONSTABLE W. K , #  
and CONSTABLE W. R , # ,

Respondents.

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TRANSCRIPT OF PROCEEDINGS had and taken before The  
Honourable Judge Joyal, held at the Law Courts Complex, 408  
York Avenue, in the City of Winnipeg, Province of Manitoba,  
on the 5th day of December, 2001.

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**APPEARANCES:**

MR. T. KILLEEN, for the Complainant.

MR. P. MCKENNA, for the Respondents.

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NOTE: For the purposes of distribution, personal information has been removed by the Commissioner.

1 DECEMBER 5, 2001

2 PROCEEDINGS CONTINUED FROM DECEMBER 4, 2001

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4 THE COURT: Mr. McKenna, Mr. Killeen.  
5 Mr. Killeen?

6 MR. KILLEEN: Your Honour it's Killeen appearing  
7 on behalf of Mr. L who's present in the court. Mr.  
8 McKenna, of course, is present on behalf of the two officers  
9 who aren't present. Mr. Wright and Mr. Haslam (phonetic)  
10 from the Law Enforcement Review Agency are present.

11 Mr. McKenna and I have resolved this matter in a  
12 fashion satisfactory to those involved and I know that my  
13 learned friend wishes a particular phrase put before the  
14 Court so if you can just --

15 MR. MCKENNA: Yes, Your Honour it's McKenna for  
16 the respondent officers. If, if you would issue a  
17 declaration that the matter has been resolved informally  
18 pursuant to S.15 of the Law Enforcement Review Act. And,  
19 and just as a housekeeping note, Your Honour, and I didn't  
20 mention this yesterday, but typically in these types of  
21 proceedings we ask for a ban on publication pursuant to S.25  
22 of the Act.

23 THE COURT: All right, to start with then I'll  
24 order the ban on publication pursuant to that section and I  
25 take it that implicit in your indication that things have  
26 been resolved informally the commissioner has endorsed or is  
27 it even necessary for him to, to endorse what I understand  
28 he would've been required to endorse had he been looking at  
29 this initially.

30 MR. MCKENNA: Well, typically the commissioner  
31 will provide some confirmation of that.

32 THE COURT: Okay, so all you're seeking --

33 MR. MCKENNA: And, and perhaps it can be done,  
34 just on the record right now.

1 MR. WRIGHT: Your Honour, at this stage of the  
2 proceedings I have referred the matter to the Chief  
3 Provincial Judge and it's come down to you. So you're --  
4 it's your declaration today, it's not mine, but, but I  
5 certainly do not have any objection to what has occurred.  
6 The complainant is satisfied and that should end it.

7 THE COURT: Okay the only question I have in this  
8 regard and I, I always seem more punctilious than I want to  
9 be when I'm dealing with this Act, but this comes back to  
10 what I said yesterday. Is it for me to decide essentially,  
11 de novo, whether this thing can be resolved informally --

12 MR. WRIGHT: Yes.

13 THE COURT: -- or do I need nothing at all in  
14 views?

15 MR. WRIGHT: No, you don't need anything from me.  
16 The decision is entirely yours Your Honour.

17 MR. MCKENNA: Your Honour, we've always taken the  
18 position that that, that, that is the way it ought to go  
19 and, and -- and in particular with the language in, in S.2  
20 of the regulation that it may be resolved at any stage of  
21 the proceedings --

22 THE COURT: Right.

23 MR. MCKENNA: -- and, and -- and we take that  
24 position because if, if we were not able to do that then  
25 this would be probably the only system that I know of where  
26 something that proceeds to a hearing cannot be pulled back  
27 by the parties.

28 THE COURT: Yeah, I, I think that's a compelling  
29 rationale. Not only because of the logic you're using but  
30 because of the wording that actually exist in the  
31 regulations that I think permit it, so in respect of our  
32 appearances today then there'll be a declaration that the  
33 matter has been resolved satisfactorily pursuant to S.15 of  
34 the Act.

1                   Thanks.  
2                   MR. MCKENNA: Thank you, Your Honour.  
3                   THE CLERK: Order all rise. This hearing is  
4 adjourned.  
5                   MR. KILLEEN: Good morning Your Honour.  
6                                   (PROCEEDINGS CONCLUDED)

**CERTIFICATE OF TRANSCRIPT**

I, **ALAIN ROCH**, hereby certify that the foregoing pages of printed matter, numbered 1 to 3 are a true and accurate transcript of the proceedings recorded by a sound recording device that has been approved by the Attorney-General and operated by court clerk/monitor, Sharleen Reid, and has been transcribed by me to the best of my skill and ability.



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