

**MEMORANDUM**

September 30<sup>th</sup>, 2002

TO: L.E.R.A. File 3610

FROM: Judge Murray Howell

**Re: Hearing date – September 24, 2002 at 10:00 a.m.  
in courtroom 408**

Appearances: Frances Telford for the complainant, M  
U Paul McKenna for the police officers, Cst. P O , Cst.  
G V Denis Guenette counsel for L.E.R.A.

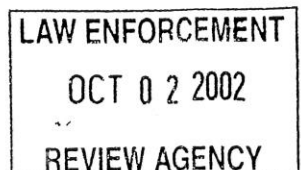
The complainant M U did not attend. No evidence was presented. There was a motion made by counsel for the police officers for dismissal of the complaint. This motion was granted. There was a further motion for an order of non-publication pursuant to s. 25 of the Act. This too was granted.

The hearing then adjourned.

  
for \_\_\_\_\_  
Judge Murray Howell

MH/mrb

c. George Wright ✓  
Commissioner, L.E.R.A.



**IN THE MATTER OF:**                    **Law Enforcement Review Act**  
**Complaint No. 3610**

**BETWEEN:**

**M                    U**

**Complainant,**

**- and -**

**P                    O                    and G                    V**

**Respondents.**

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**EXCERPT FROM PROCEEDINGS** had and taken before The Honourable Judge Howell, held at the Law Courts Complex, 408 York Avenue, in the City of Winnipeg, Province of Manitoba, on the 10th day of September, 2002.

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**APPEARANCES:**

**MR. D. GUENETTE**, for the Commissioner

**MS. F. TELFORD**, for the Complainant.

**MR. P. MCKENNA**, for the Winnipeg Police Association

1 EXCERPT FROM SEPTEMBER 10, 2002

2

3 THE COURT: Thank you.

4 Well this, as I indicated, this matter has been,  
5 the incident giving rise to this matter occurred over four  
6 years ago, so it's been going on for a long period of time.  
7 It's been set for, for hearing and was unable to go ahead  
8 and that was almost a year ago and here it is again.

9 Counsel has made an application, counsel on behalf  
10 of the complainant has made an application to have this  
11 matter further adjourned from the September 24th and 25th  
12 dates it's now set for.

13 I'm generally amenable to having matters  
14 adjourned. Counsel didn't identify, and I'm not going to  
15 request that counsel do so I'm just commented, making the  
16 observation that counsel didn't identify the reason for the  
17 adjournment other than that there was a personal conflict  
18 with the, with the complainant who would not be able to be  
19 here on the September 24th date.

20 Given the length of time that this, this matter  
21 has, has taken, and appreciative of the fact that it took  
22 some period of time with the commissioner's office. And  
23 also appreciative of the fact that hearings have been  
24 adjourned before, albeit for identifiable reasons, and not  
25 the fault of the complainant, I'm, I'm not inclined to  
26 adjourn the matter further without more compelling reasons  
27 being advanced by the complainant for the adjournment.

28 If you wish to discuss the matter further --

29 MS. T : I would Your Honour.

30 THE COURT: -- with your client I'll give you a  
31 recess of 15 minutes or so, or 20 minutes or so, if you want  
32 to advance any further reasons to me. But with the reasons  
33 advanced before me now I'm not inclined to grant an  
34 adjournment.

1 MS. T : Fifteen minutes would be fine Your  
2 Honour.

3 THE COURT: Thank you.

4

5 (BRIEF RECESS)

6

7 MS. T : Thank you, Your Honour, for the  
8 opportunity to speak with Mrs. U

9 Mrs. U declines to advise the Court with more  
10 particularity as to her, the personal nature of her request,  
11 and as such we can indicate to the Court that she will not  
12 be appearing on September the 24th and 25th with respect to  
13 the hearing of this matter.

14 THE COURT: Neither day she'll be appearing on?

15 MS. TELFORD: That's correct.

16 THE COURT: That she anticipates. Fine, I'm sorry  
17 but we'll be proceeding on, on those dates, so.

18 MR. MCKENNA: Your Honour I would move at this  
19 time then that you would dismiss the complaint and if we  
20 have then, based on their undertaking that they're not going  
21 to be there, I would move that you do that at that, at this  
22 time rather than wait until then.

23 THE COURT: Well I'm going to -- we, we never know  
24 what's going to happen. We, we think they're not going to  
25 be there but they may well be there. I don't know the  
26 nature of why she won't, she can't attend or she feels she  
27 can't attend at this point in time, but that is the likely  
28 result on the September 24th date. But I'm not going to  
29 dismiss it at this point in time.

30 Are you going to be here?

31 MS. TELFORD: I will come and repeat what I've  
32 said this afternoon.

33 THE COURT: Fine.

34 MS. TELFORD: Just indicate to the Court that I, I

1 will do that.

2 THE COURT: Fine. And if you could maybe just  
3 phone my office about two days before?

4 MS. TELFORD: I think it's set for Tuesday, I'll  
5 phone on Friday.

6 THE COURT: Well could you phone on Friday --

7 MS. TELFORD: Yes.

8 THE COURT: -- and just confirm what you said  
9 today or --

10 MS. TELFORD: Otherwise.

11 THE COURT: -- maybe indicate that she's, that  
12 she's going to proceed. And if you receive information  
13 prior to that date of any change would you please notify Mr.  
14 McKenna immediately.

15 MS. TELFORD: Immediately.

16 THE COURT: And Mr. McKenna I understand that you  
17 may have subpoenaed or in the process of subpoenaing --

18 MR. MCKENNA: Process.

19 THE COURT: -- several witnesses for that --

20 MR. MCKENNA: Yes Your Honour.

21 THE COURT: -- for those dates. Would, I'm not  
22 going to require you to have the witnesses there on the  
23 first day. Are these local witnesses or anybody from out of  
24 town?

25 MR. MCKENNA: Everybody that I know of is local  
26 Your Honour.

27 THE COURT: Right, and if something happened that  
28 we, the thing is sort of revived, I, I certainly would be  
29 inclined to be somewhat sympathetic about witnesses that  
30 weren't able to attend, witnesses of your client who were,  
31 were not able to attend. So you'll contact me on the Friday  
32 before or my office on the Friday before.

33 MS. TELFORD: And I will immediately contact Mr.  
34 McKenna if there's any change in our position as stated

1 today Your Honour.

2 THE COURT: Right. Okay, thank you.

3 MS. TELFORD: Thank you.

4 THE CLERK: Order all rise, court is closed.

5 (EXCERPT CONCLUDED)

**CERTIFICATE OF TRANSCRIPT**

I, **ALAIN ROCH**, hereby certify that the foregoing pages of printed matter, numbered 1 to 4 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, Mary Evans, and has been transcribed by me to the best of my skill and ability.



COURT TRANSCRIBER

CERTIFIED COURT TRANSCRIPT  
FROM THE OFFICE OF  
TRANSCRIPTION SERVICES UNIT

  
TRANSCRIPTION SERVICES UNIT

IN THE MATTER OF:                    Law Enforcement Review Act  
  Complaint No. 3610

BETWEEN:

M                    U

Complainant,

- and -

CONSTABLE P                    O                    #1959,  
And G                    V                    #1707

Respondents.

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TRANSCRIPT OF PROCEEDINGS, had and taken before  
The Honourable Judge Howell, held at the Law Courts Complex,  
408 York Avenue, in the City of Winnipeg, Province of  
Manitoba, on the 24th day of September, 2002.

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APPEARANCES:

MS. F. TELFORD, for the Complainant

MR. D. GUENETTE, for the Commissioner

MR. P. MCKENNA, for the Respondents

1 SEPTEMBER 24, 2002

2

3 THE JUDGE: Ms. Telford, this hearing is going to  
4 be fairly short. I don't see your client here.

5 MS. TELFORD: She's not present this morning, as I  
6 had indicated at our previous hearing.

7 THE JUDGE: Right. And Mr. McKenna is renewing  
8 his motion to have the matter dismissed.

9 MR. MCKENNA: That's correct, Your Honour. My  
10 motion is pursuant to Section 27(2) of the legislation, that  
11 because you have not heard evidence of the disciplinary  
12 default at all, that you ought to dismiss the complaint.  
13 And further, I'm asking you to order a ban on publication  
14 pursuant to Section 25 of the legislation.

15 THE JUDGE: Any comments?

16 MR. GUENETTE: No comments from us, Your Honour.

17 MS. TELFORD: No comment.

18 THE JUDGE: Well, obviously, without the  
19 complainant here we can't proceed further and I'm going to  
20 grant both motions made by Mr. McKenna on behalf of the  
21 officers. So this complaint is dismissed and as a result of  
22 that dismissal, I'm going to order a ban on publication  
23 pursuant to Section 25, is that --

24 MR. MCKENNA: That's correct, Your Honour.

25 THE JUDGE: Pursuant to Section 25 of the Act.

26 (PROCEEDINGS CONCLUDED)



CERTIFICATE OF TRANSCRIPT

I, KIMBERLEY M. POHORILY, hereby certify that the foregoing page of printed matter, numbered 1, is 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, Stephanie Schnell, and has been transcribed by me to the best of my skill and ability.



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