

IN THE MATTER OF:

**Law Enforcement Review Act
Complaint No. 5909 and
Complaint No. 5926**

BETWEEN:

M.F. and A.C.,

Complainants

- and -

**PATROL SERGEANT S.M.,
CONSTABLE M.S.,
CONSTABLE S.B.,
CONSTABLE S.H.,
CONSTABLE S.C.,
CONSTABLE R.M.,
CONSTABLE T.C.,
CONSTABLE D.K.,**

Respondents

TRANSCRIPT OF PROCEEDINGS, had and taken before
The Honourable Judge Guy, held at the Law Courts Complex,
408 York Avenue, in the City of Winnipeg, Province of
Manitoba, on the 17th day of December, 2007.

APPEARANCES:

MS. R. CAMPBELL, for M.F.

MS. S. CHAPMAN, for A.C.

H. WEINSTEIN, Q.C. and MR. P. MCKENNA, for the Winnipeg
Police Association.

BAN ON PUBLICATION

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

1 DECEMBER 17, 2007

2 PROCEEDINGS CONTINUED FROM DECEMBER 4, 2007

3

4 THE JUDGE: Good morning.

5 MR. MCKENNA: Good morning, Your Honour.

6 MS. CHAPMAN: Good morning, Your Honour.

7 THE JUDGE: One of you can speak.

8 MR. MCKENNA: Yes. I've been asked to advise you
9 of the status of the matter, Your Honour.

10 The parties wish to advise you that this matter
11 has been resolved fully by way of an informal resolution.
12 As a rule, informal resolutions are not on the record. We
13 have agreed to put certain details before you, on the
14 record.

15 Firstly, we are entering an admission of
16 disciplinary default on behalf of Sergeant S.B. And that is
17 for count number 4 of the notice of alleged disciplinary
18 default, which is Exhibit No. 8 in the proceedings.

19

20 And just on a housekeeping note, I am wondering if
21 the clerk could put Exhibit No. 8 in front of you.

22 Just on a housekeeping note, if you look at the
23 first page of Exhibit No. 8, you will see that we still have
24 the name L.S.

25 THE JUDGE: Yes.

26 MR. MCKENNA: And we still have LERA Complaint No.
27 5925. Those should be struck from, from the complaint, the
28 number 5925 and the name L.S.

29 THE JUDGE: And L.S.?

30 MR. MCKENNA: And while you have the exhibit in
31 hand, count No. 4 is on the second page of that exhibit,
32 Your Honour.

33 THE JUDGE: Yes.

34 MR. MCKENNA: The parties further wish to advise

1 you on the record that they have agreed to a penalty of two
2 days forfeiture of pay.

3 THE JUDGE: Yes.

4 MR. MCKENNA: Which is pursuant to section
5 30(1)(e) of the Act. The parties are requesting that you
6 order this penalty.

7 THE JUDGE: Yes. I do.

8 MR. MCKENNA: Okay. The second part of the
9 resolution that the parties have agreed to put before you is
10 that the remaining charges against Sergeant B. that would be
11 counts 1, 2 and 3 --

12 THE JUDGE: Yes.

13 MR. MCKENNA: And all of the charges against the
14 other seven respondent officers, that would be counts 1, 2,
15 3 and 4, are withdrawn by the two complainants.

16 And the only remaining matter from our side is
17 that we are asking that the ban on publication continue, as
18 it applies to the remaining seven respondent officers.

19 THE JUDGE: Yes. That ban will go.

20 MR. MCKENNA: I trust that my learned friend, Ms.
21 Chapman, will concur that I have accurately reflected the
22 agreement.

23 MS. CHAPMAN: I believe that that, in fact, is
24 accurately reflected, Your Honour, with respect to what the
25 agreement was.

26 Could I just have one moment with my learned
27 friend?

28 THE JUDGE: Sure can.

29 MS. CHAPMAN: I'm sorry. Perhaps if I could just
30 have a short break.

31 THE JUDGE: Oh. Okay. I'll --

32 THE CLERK: Order, please.

33 THE JUDGE: -- go out and mess up the ...

34

1 (BRIEF RECESS)

2

3 THE CLERK: (Inaudible).

4 MR. MCKENNA: Thank you. Your Honour, I'd just
5 like to amend one aspect. The penalty that will be on the
6 record is suspension without pay for two days. And that is
7 pursuant to 30(1)(d).

8 THE JUDGE: Okay.

9 MR. MCKENNA: As opposed to forfeiture of pay,
10 which is (e). And I trust that other than that, I have
11 accurately reflected the agreement.

12 MS. CHAPMAN: Yes, Your Honour. Pursuant to the
13 Act, the jurisdiction for this court to accept that appears
14 to come under section 28 of The Law Enforcement Review Act,
15 plus the regulations that Mr. McKenna has referred you to as
16 well.

17 And the penalty that our clients have spoken
18 about, and that the discussions have been based on, was, in
19 fact, 30(1)(d), with respect to the suspension without pay
20 for two days. So we are in agreement as has been set out by
21 my learned friend.

22 THE JUDGE: Okay. So I'll indicate suspension
23 without pay for two days.

24 MS. CHAPMAN: Yes. Please.

25 MR. MCKENNA: That's correct.

26 THE JUDGE: That's where you (inaudible), pursuant
27 to section (d)?

28 MR. MCKENNA: That's correct.

29 THE JUDGE: Okay.

30 MS. CHAPMAN: And excuse me, pursuant, then, to
31 the Act as well, once the complaint has been admitted to,
32 then it is of public record, according to the jurisdiction
33 of The Law Enforcement Review Act, and under section, I
34 believe it's 28(4), where the respondent, where a Provincial

1 Court judge has ordered a penalty against the respondent,
2 the Chief of Police shall impose that penalty. And that's
3 the jurisdiction under 28(4).

4 I don't know if the court has to indicate that in
5 your reasons, or whether or not it would just be done as a
6 matter of course, but just to ensure that it's dealt with
7 according to the Act.

8 THE JUDGE: So pursuant to section 28(4), it goes
9 on.

10 MR. MCKENNA: That's correct. Your order, I had
11 asked you to order that penalty, and I perhaps should have
12 gone into greater detail, that your order would be sent to
13 the Chief of Police, pursuant to 28(4).

14 THE JUDGE: Yes. Pursuant to section 28(4).

15 MR. MCKENNA: That's correct.

16 THE JUDGE: Yes. I make the order with respect to
17 the suspension for two days, admission of guilt. Okay?

18 MS. CHAPMAN: Thank you, Your Honour. And the ban
19 on publication, then, would be removed, as ordered.

20 THE JUDGE: Yes. The ban on publication will go
21 for the rest of the officers, and those complaints will be
22 withdrawn.

23 MR. MCKENNA: Thank you.

24 MS. CHAPMAN: Yes.

25 THE JUDGE: Okay?

26 MS. CHAPMAN: Thank you, Your Honour.

27 THE JUDGE: Thank you.

28 MR. MCKENNA: Thank you, Your Honour.

29 THE CLERK: All rise.

30

31 (PROCEEDINGS CONCLUDED)

CERTIFICATE OF TRANSCRIPT

I hereby certify that the foregoing pages of printed matter, numbered 1 to 4, are a true and accurate transcript of the proceedings, transcribed by me to the best of my skill and ability.

ROSEMARY E. IWASIENKO
JUDGE TRANSCRIBER