

THE PROVINCIAL COURT OF MANITOBA
BRANDON CENTRE

IN THE MATTER OF: LAW ENFORCEMENT REVIEW ACT
Complaint No. 2013/128

BETWEEN:

[REDACTED],

Complainant,

-and-

CONSTABLE [REDACTED],

Respondent.

REASONS FOR JUDGMENT delivered by The Honourable Judge Slough, at the Brandon Courthouse, 1104 Princess Avenue, in the City of Brandon, in the Province of Manitoba, on the 26th day of April, 2016.

APPEARANCES:

MR. D. JOHNSTON, for the Commissioner.

H. WEINSTEIN, Q.C., for the respondent.

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4 I am prepared to deal with this at this point.

5 I want to emphasize first of all that this is not
6 a rehearing. It is not my task here to go through the
7 evidence and decide what I would have decided. The
8 question is: What was done - yes, sir?

9 MR. [REDACTED]: (Inaudible) one more time?

10 THE COURT: One more time.

11 MR. [REDACTED]: I was originally arrested in 2010
12 and the police had my guns for five years and there was
13 ample opportunity for Mr. (inaudible).

14 THE COURT: Okay.

15 MR. [REDACTED]: He didn't need to wait to the very
16 end to (inaudible) at my place.

17 THE COURT: Okay. Thank you.

18 MR. [REDACTED]: You're welcome.

19 THE COURT: As I say, it is really not for me to
20 go through here and decide what was done.

21 I have reviewed the record and there is certainly
22 no question in my mind that Mr. Churley was actively
23 involved in trying to investigate this complaint. It is up
24 to him to decide how he does that and it is up to him again
25 to weigh the evidence, including disputed facts, and make
26 determinations.

27 As counsel has pointed out, my function here is
28 much more limited. It is my function to determine whether
29 or not the Commissioner's conclusion is based on a
30 reasonable assessment of the evidence and if that
31 conclusion is one of the rational conclusions that could be
32 arrived at the Commissioner's determination is entitled to
33 deference and ought not to be disturbed.

34 In my view, given the efforts that were made over

1 an extended period of time - and I know that Mr. [REDACTED]
2 has criticized some of the things that were done, but that
3 is really not the scope of this review - there were
4 consistent efforts by the Commissioner to pursue this
5 matter, to get information that he believed was relevant to
6 this complaint, to develop and speak to Mr. [REDACTED] about
7 his concerns here - and quite frankly I agree that he went
8 out of his way to attempt to get the information that he
9 required - that ultimately after months of attempts and
10 numerous efforts he decided that Mr. [REDACTED] was not
11 interested in pursuing this matter. I think that was a
12 rational conclusion. Mr. [REDACTED] takes a different view,
13 but that really is not the test. The test is whether or
14 not the Commissioner reached a rational conclusion that Mr.
15 [REDACTED] had in effect abandoned this claim and I find that
16 that was a rational conclusion based on the evidence before
17 the Commissioner on the record and accordingly I am
18 dismissing the claim.

19 I believe that concludes this matter.

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21 (REASONS FOR JUDGMENT CONCLUDED)
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27 **CERTIFICATE**

28 I hereby certify the foregoing pages of printed
29 matter, numbered 1 to 2, are a true and accurate transcript
30 of the proceedings, transcribed by me to the best of my
31 skill, ability and understanding.

32
33 DONNA M. SCINOCCA
34 COURT TRANSCRIBER