

IN THE MATTER OF: Law Enforcement Review Act
Complaint No. 3585

AND IN THE MATTER OF: An application pursuant to
Section 13(2) of The Law
Enforcement Review Act,
R.S.M. 1987, c L75

BETWEEN:

C J

Complainant,

- and -

CONSTABLE G. Z , # ,

Respondent.

TRANSCRIPT OF PROCEEDINGS had and taken by The
Honourable Judge Howell, held at the Law Courts Complex, 408
York Avenue, in the City of Winnipeg, Province of Manitoba,
on the 16th day of May, 2001.

APPEARANCES:

MR. AND MRS. J as Agent for C J
MR. D. GUENETTE, for the Commission.
MR. P. MCKEENA, for the Respondent.

1 MAY 16, 2001

2

3 MR. MCKEENA: Good morning, Your Honour.

4 THE JUDGE: Good morning.

5 MR. GUENETTE: Good morning.

6 THE JUDGE: Good morning. This is the C
7 J complaint.

8 MR. GUENETTE: That's correct, Your Honour.

9 THE JUDGE: It's my understanding that the matter
10 is being withdrawn. Do I have that correct?

11 MR. GUENETTE: That is correct, Your Honour. In
12 the courtroom are Mr. and Mrs. J , the parents of
13 C . They wrote a letter to the Commissioner in April
14 of this year and I don't know if Your Honour has a copy of
15 that letter on file.

16 THE JUDGE: No, I don't have a copy of that, that
17 letter, I just have some material from the, the notice.

18 MR. GUENETTE: I did not make a copy of that
19 letter, Your Honour, but I can certainly provide it to you
20 from my file if you want to read it.

21 THE JUDGE: I just received a note that the
22 complainant's mother will be in attendance and counsel for
23 the Commission will produce a letter indicating why the
24 complainant does not wish to proceed with this matter.
25 That's the note that I have received --

26 MR. GUENETTE: Okay.

27 THE JUDGE: -- that was attached to the file that
28 -- as the -- some of the documentation from the -- I suppose
29 the Commissioner's file but not the complaint, itself.

30 MR. GUENETTE: My understanding, Your Honour, was
31 that the letter that was written on February 1, a copy was
32 sent to the, to the Chief Judge on April 2, 2001 by the
33 Commissioner.

34 THE JUDGE: Yes.

1 MR. GUENETTE: The letter was sent to the
2 Commissioner and that the Commissioner then forwarded it
3 over to the Chief Judge. So that would have been under
4 cover of a letter dated April 2, 2001 and there's an
5 attachment. The attachment is in handwriting.

6 THE JUDGE: Well, I have the, the letter dated
7 April 2 and there is nothing attached --

8 MR. GUENETTE: Okay.

9 THE JUDGE: -- to it. And that -- you're talking
10 about the letter from the Commissioner, Wright.

11 MR. GUENETTE: That's right, correct. And I
12 gather there should have been a copy enclosed, in
13 handwriting --

14 THE JUDGE: Well, I don't have --

15 MR. GUENETTE: -- written by Ms. J . I can
16 certainly give Your Honour a copy of that.

17 THE JUDGE: This is all the material I have.
18 That's all that was given to me. It doesn't appear to be in
19 there.

20 MR. GUENETTE: No.

21 THE JUDGE: No.

22 MR. GUENETTE: At the bottom of that letter it
23 does mark that there should have been an enclosure with it
24 so --

25 THE JUDGE: It does say that, yes.

26 MR. GUENETTE: -- perhaps it was misplaced, Your
27 Honour.

28 THE JUDGE: I'll just read the, read the letter.

29 Yes, I've read the letter and certainly from the
30 information entered I can understand why she may not wish to
31 proceed with the matter. Of course, this isn't a, this
32 isn't a trial or a criminal charge but it is a proceeding
33 under a Provincial Statute and it can be somewhat trying on
34 people. They have to testify and, and of course, they are

1 examined by -- cross-examined by, by counsel in some cases
2 so I understand as to why you might wish not to proceed with
3 the matter. So if you are not proceeding then the matter is
4 at a, at a close. You understand that?

5 MS. J : May we speak? We're in a --

6 THE JUDGE: Yes, you -- certainly you can, you can
7 speak, yes.

8 MS. J : We are in a very difficult situation.
9 We, personally, would like this to proceed because we would
10 like things to change but C is not emotionally
11 capable of being present in a courtroom. She has tried to
12 kill herself three times. When we mentioned that this was
13 coming up she basically flipped out again, lost total
14 control. We can't risk her well being and that is the
15 unfortunate situation we are in.

16 MR. J : When the first -- when the matter was
17 first brought to the attention of the police department,
18 it's probably well over two years now. She was -- because
19 of what happened, she was really adamant to go forward and
20 then as time progressed, she changed and every time it was
21 brought up, as something new was happening, she backed off
22 and this last contact with LERA, to bring this forward
23 today, she wanted no part of it. And she's been doing
24 really well for the last year and a half and to bring her
25 into a situation where someone could cross-examine or where
26 she would have to confront the person involved would not be
27 to her best interest.

28 THE JUDGE: Well, I guess she's made that
29 decision. It was her complaint, she was the one that filed
30 the complaint; is that correct?

31 MR. J : Yes.

32 THE JUDGE: And in order for it to proceed she
33 would have to take some part in it and if she doesn't wish
34 to do so she certainly isn't obliged to continue the

1 complaint once she has filed it. You've probably counseled
2 her to do what's best for her and I guess she has decided
3 the best thing for her, at this time, is, is to withdraw the
4 complainant and not proceed any further with it.

5 We have to bring some kind of closure to it for
6 the police officers, as well, so the matter will be
7 considered closed then, at this, at this stage. Do you
8 understand that?

9 MR. J : We do. We're, personally, not really
10 happy with it but we understand that.

11 THE JUDGE: Yes, I understand your position may be
12 even different from, from your daughter's but you understand
13 that the matter will be, will be closed --

14 MR. J : Closed, yes.

15 THE JUDGE: -- from this point in time on.

16 MS. J : In this court venue.

17 THE JUDGE: Pardon me?

18 MS. J : In this court venue.

19 THE JUDGE: In this hearing.

20 MS. J : Yes.

21 THE JUDGE: Yeah. It's not officially a court
22 but --

23 MS. J : Okay, well, in this hearing.

24 THE JUDGE: -- it certainly looks like a court
25 and --

26 MS. J : Yeah.

27 THE JUDGE: -- it is a courtroom and I am a judge
28 but -- so the matter will be concluded as of now.

29 MR. MCKEENA: Your Honour, if we could just have
30 something for the record, given that there has been a charge
31 laid against the officer.

32 THE JUDGE: Well, the charge is now withdrawn; is
33 that -- that's what you wish to be done?

34 MS. J : I'm -- was understanding --

1 THE JUDGE: You are speaking on her behalf; is
2 that --

3 MR. J : Yes.

4 MS. J : But I was understanding that when Mr.
5 Wright spoke to us, that LERA wished to proceed
6 independently.

7 MR. GUENETTE: That's another matter altogether
8 it's out of the scope of this.

9 MS. J : That's another matter. Okay.

10 MR. GUENETTE: He was referring to another matter
11 that Mr. -- the Commissioner will be dealing with the police
12 directly, outside the scope of this hearing.

13 THE JUDGE: This has nothing to do with the matter
14 that's here now. This is nothing to do with the -- with
15 this complaint?

16 MR. GUENETTE: That's correct, Your Honour.

17 MR. MCKEENA: Do we then have it on the record
18 that this charge has been withdrawn?

19 THE JUDGE: Yes.

20 MR. MCKEENA: All right.

21 THE JUDGE: A representative -- I understand you
22 are representing her here today --

23 MR. J : Yes.

24 THE JUDGE: -- and the matter is -- you want the
25 matter now withdrawn.

26 MR. J : As far as C is concerned, yes,
27 that's correct.

28 THE JUDGE: Well, as far as this procedure is
29 concerned.

30 MR. J : Yes.

31 THE JUDGE: And your wife is in agreement with
32 that?

33 MS. J : Yes. But as I say, it didn't just
34 impact C , it affected our whole family.

1 THE JUDGE: Right but it --
2 MS. J : So that's the --
3 THE JUDGE: -- but it --
4 MS. J : -- double-edged sword.
5 THE JUDGE: She's the one that filed the
6 complaint.
7 MS. J : Yes.
8 THE JUDGE: So it's her complaint that we are
9 dealing with now.
10 MS. J : Yes.
11 THE JUDGE: If other people filed a complaint,
12 we're not -- I'm not dealing with that --
13 MS. J : Okay.
14 THE JUDGE: -- right, right here and now, that's
15 not before me. Other people may have filed a complaint,
16 that will have to be dealt with in, in the course of things
17 but for this particular complaint, it's withdrawn right now.
18 Thank you. Do you have any questions?
19 MR. GUENETTE: Thank you, Your Honour.
20 (PROCEEDINGS CONCLUDED)

CERTIFICATE OF TRANSCRIPT

I, PAMELA PESCIPELLI, hereby certify that the foregoing pages of printed matter, numbered 1 to 6, 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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