

IN THE MATTER OF:

Law Enforcement Review Act
Complaint No. 3856

BETWEEN:

M. K.

Complainant,

- and -

CONSTABLE G K # ,

Respondent.

TRANSCRIPT OF PROCEEDINGS had and taken before The Honourable Judge Everett, held at the Law Courts Complex, 408 York Avenue, in the City of Winnipeg, Province of Manitoba, on the 27th day of June, 2002.

APPEARANCES:

MR. D. GUENETTE, for the Commissioner.

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

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

1 JUNE 27, 2002

2

3 MR. MCKENNA: Your Honour, my name is McKenna for
4 the respondent officers and Mr. Guenette is here for the Law
5 Enforcement Review Agency. We have a -- we were carbon
6 copied with a letter that went to Ms. K advising of this
7 hearing date. She is not here and I have heard nothing from
8 her as to whether or not she will be attending nor have I
9 heard from M B as to whether or not she will be
10 attending. Nevertheless, you had asked us to get back on
11 the record if, in fact, the matter had been resolved
12 informally and we can advise you that it is our position
13 that it has been.

14 We met before you on November 14, 2001, following
15 that brief opening of the hearing we had an informal
16 resolution meeting which was assisted by the commissioner,
17 Mr. George Wright, who is here in the room, on November 21,
18 2001 and within two weeks of that and specifically on
19 December 3, 2001, Mr. Jim Haslam, an investigator with the
20 Law Enforcement Review Agency, received a voice mail message
21 from Ms. K advising that she was satisfied that the
22 matter had been resolved and did not want to proceed any
23 further and that is the last position we have from her. We
24 believe that is, in fact, her position on this matter.

25 THE COURT: Well, this is only anecdotal
26 information, I just heard through the clerk, who apparently
27 spoke to M B who apparently heard from the
28 complainant, who said she thought the matter was at ten
29 o'clock today and that -- I don't -- that she could walk
30 down here in 15 minutes. I don't know if she is or if she
31 isn't, it's third-hand hearsay but I'll --

32 MR. MCKENNA: Yes.

33 THE COURT: -- throw that into the mix. What are
34 you suggesting with respect to the closure of the matter,

1 would it be -- are you suggesting an adjournment sine die
2 or ...

3 MR. MCKENNA: No, that the matter just be
4 indicated as having been resolved and the complaint
5 withdrawn.

6 THE COURT: Okay, well, I don't know if she is on
7 her way down here or not because Ms. B didn't speak
8 directly to me and -- I don't know whether she is going to
9 be here within the next 15 minutes or not but I suppose as a
10 courtesy to her, if counsel aren't required in other
11 courtrooms at ten, we should wait in case -- we should take
12 a recess, see if she does show up, and as a courtesy put
13 this information on the record in front of her.

14 If she is able to walk here within 15 minutes then
15 she should be here by 9:45, if she's on her way.

16 THE CLERK: Or sooner.

17 THE COURT: Or sooner. I'm in bail court at ten
18 and, and as counsel know that's an extremely busy court so I
19 won't be able to deal with it after ten o'clock. Are
20 counsel available to wait in case she does show up?

21 MR. MCKENNA: I have clients coming in from out of
22 town, scheduled for ten but, you know, I can have them wait
23 ten minutes if, if this starts at ten.

24 MR. GUENETTE: I'm okay.

25 THE COURT: Okay. Well, I think -- let's, let's
26 take a recess, I'll go back up to chambers. If she arrives
27 here sometime before ten o'clock we'll put the information
28 on the record in her presence. If she doesn't arrive here,
29 I can only assume from her actions then that she's chosen
30 not to come but apparently she is a 15 minute walk away
31 so ...

32 MR. MCKENNA: Okay, is it, is it possible to, to
33 say that if she does not come then that what I have just
34 finished telling you would be the record of the resolution

1 then, we don't have to go through it again?

2 THE COURT: I don't have a complainant in front of
3 me. If --

4 MR. MCKENNA: Yes, fair enough.

5 THE COURT: -- if she doesn't arrive here that
6 will --

7 MR. MCKENNA: Um-hum. Yeah.

8 THE COURT: Thank you.

9

10 (BRIEF RECESS)

11

12 THE COURT: Okay, Ms. K is here now.

13 MS. K : Sorry about that.

14 THE COURT: That's okay. Are you aware of what's
15 happening or ...

16 MS. K : All I know he said that we just -- that
17 I am satisfied and then that's it.

18 THE COURT: Okay, and, and are you?

19 MS. K : Yes.

20 THE COURT: Okay. So maybe you can just put it on
21 the record what you did when Ms. K wasn't here.

22 MR. MCKENNA: All right.

23 THE COURT: The lawyer -- I had come in at quarter
24 after nine and explained that you were on your way so I will
25 just have the lawyer repeat what he said at quarter after
26 nine just so you know.

27 MR. MCKENNA: We would just like the record to
28 reflect that the parties met on Wednesday, November -- or I
29 shouldn't say Wednesday, it's November 21, 2001 with the
30 assistance of Mr. George Wright of the Law Enforcement
31 Review Agency and -- in an attempt to resolve the matter
32 informally and then Ms. K advised Mr. Haslam, H-A-S-L-A-
33 M, of the Law Enforcement Review Agency, on December 3, 2001
34 that she was satisfied that the matter had been resolved and

1 did not want to proceed any further and according to your
2 instructions from November 14, 2001 we are here to put that
3 -- the fact that it has been resolved between the parties,
4 to put that on the record before you.

5 THE COURT: Thank you. Ms. K , you agree the
6 matter has been resolved --

7 MS. K : Yes.

8 THE COURT: -- and you're satisfied and no further
9 action is to be taken.

10 Thank you very much, thank you for coming today.

11 (PROCEEDINGS CONCLUDED)

CERTIFICATE OF TRANSCRIPT

I, **PAMELA PESCIPELLI**, 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, Karen Oxenforth, and has been transcribed by me to the best of my skill and ability.

Pamela Pescitelli

COURT TRANSCRIBER

CERTIFIED COURT TRANSCRIPT
FROM THE OFFICE OF
TRANSCRIPTION SERVICES UNIT

P. Pescitelli
TRANSCRIPTION SERVICES UNIT