

IN THE MATTER OF:

An application pursuant to
S.13(2) of the Law Enforcement
Review Act R.S.M. 1987, C L75

BETWEEN:

K.A.

Complainant,

- and -

CONSTABLE D.S.
and CONSTABLE D.C.

Respondents.

TRANSCRIPT OF PROCEEDINGS had and taken before The
Honourable Judge Rubin, held at the Law Courts Complex, 408
York Avenue, in the City of Winnipeg, Province of Manitoba,
on the 23rd day of January, 2002.

APPEARANCES:

MR. G. GUENETTE, for the commissioner, George Wright.

MR. P. MCKENNA, for the Respondents.

1 JANUARY 23, 2002

2

3 THE JUDGE: Good afternoon gentlemen.

4 MR. MCKENNA: Afternoon Your Honour.

5 MR. GUENETTE: Afternoon Your Honour.

6 THE COURT: Thank you.

7 The clerk tells me that there's been no sign of
8 the complainant at this point. Is that correct?

9 MR. MCKENNA: I, I have not seen -- your, Your
10 Honour, it's McKenna for the record --

11 THE JUDGE: Yes.

12 MR. MCKENNA: -- for the respondent officers. I
13 have not seen the complainant and I checked my voice (sic)
14 mail messages every morning, I have not received a voice
15 mail message from the complainant or any correspondence from
16 her --

17 THE JUDGE: All right --

18 MR. MCKENNA: -- advising that she will not be in
19 attendance.

20 THE JUDGE: We'll page her. K.A.
21 Although she has some other names does she not?

22 MR. MCKENNA: Yes.

23 THE JUDGE: Seems to me the file discloses --

24 MR. MCKENNA: Yes.

25 THE JUDGE: -- that she goes by a couple of other
26 names?

27 MR. MCKENNA: Two others.

28 THE JUDGE: Yeah --

29 MR. MCKENNA: D. (phonetic) and Z.
30 (phonetic).

31 THE JUDGE: Right, Z. and D. but since
32 the complaint is made in the name of A. I think that's
33 the one we'll page and leave the others to be.

34 MR. GUENETTE: Perhaps I can indicate, Your

1 Honour, for the record there have been no -- Guenette for
2 the monitor --

3 THE JUDGE: Yes Mr. Guenette?

4 MR. GUENETTE: -- on behalf of the commissioner.
5 There have been no communication recently with Ms. A
6 so there's no indication one way or another, from the
7 commissioner's standpoint, whether she intended to appear
8 this morning.

9 THE JUDGE: On January the 4th, apparently, J
10 W , at that time, was in your office, Mr. Wright, and
11 reviewed the file.

12 MR. WRIGHT: Yes that's correct Your Honour, he
13 was doing that for Mr. McKenna.

14 THE JUDGE: But no one was in, looking at it on
15 Ms. A's behalf?

16 MR. WRIGHT: No, I believe there was legal counsel
17 from the university at one time that had contacted us, but
18 we've had no contact for ages.

19 THE JUDGE: Well perhaps we'll give her, at least,
20 'til a quarter after two. We'll page her again.

21 THE CLERK: Do you want me to page her now?

22 THE JUDGE: No --

23 THE CLERK: Okay.

24 THE JUDGE: -- we'll wait five minutes if you
25 would.

26 Was your last communication with her back when, in
27 March the 1st when she asked for the review?

28 MR. WRIGHT: It seems to me that's what it would
29 be Your Honour.

30 THE JUDGE: Yeah.

31 MR. WRIGHT: I guess.

32 THE JUDGE: I, I'm sort of looking at your file
33 and that appears to be the last time you had communication
34 with her, officially on the file --

1 MR. WRIGHT: Yes.

2 THE JUDGE: -- Mr. Wright.

3 MR. WRIGHT: Your Honour, I spoke with Ms., Ms.
4 A July the 24th, 2001. There's perhaps an email
5 about it. She called me and she requested a copy of her
6 file and so forth and so that's really the last time that I
7 had anything to do with her, was on July the 24, 2001.

8 THE JUDGE: Okay does your file say what she
9 wanted at that time sir?

10 MR. WRIGHT: She -- it -- Ms. A. called and
11 said she had been referred to me by you, M. B had
12 referred her to me. She would request a copy of her file
13 and I informed, informed her that this was fine, however I
14 would only forward it to her after a date had been confirmed
15 for the review. She got very upset and informed me that it
16 was obvious I had something to hide and that she was just
17 going to report me to the judge for not cooperating and I
18 informed M B of that so I could eventually find a,
19 a date for the review. We got notified of the date for the
20 review on December, we, on December the 7th, 2001 and
21 there's been no further contact that I'm aware of.

22 THE JUDGE: The letter didn't come back as far as
23 you can recall. Or you would show that on your file
24 probably.

25 MR. WRIGHT: No the letter didn't come back. As
26 far as we know that her address has been stable.

27 THE JUDGE: Will you send Mr. Hannon out to see if
28 he could find her or see her?

29 MR. WRIGHT: Yes. As a matter of fact, also Your
30 Honour, I had made a copy of the file to give to her when
31 she contacted (inaudible).

32 THE JUDGE: And then never come in for it?

33 MR. WRIGHT: No and Mr. Hannon was checking for
34 her.

1 THE JUDGE: In light of that -- do you know of any
2 circumstances that have changed for her? Well of course you
3 wouldn't you haven't heard from her.

4 In light of the fact that you haven't heard from
5 her, nor has she picked up her copy of the file that she
6 requested way back in, in July of, of last year and there's
7 been no counsel indicated to the commissioner or to counsel
8 that they were representing her. I can only conclude that
9 she's abandoned her complaint and I will so find.

10 Good afternoon gentlemen, thank you.

11 MR. MCKENNA: Your Honour, if I may --

12 THE JUDGE: Yeah, sorry.

13 MR. MCKENNA: -- just ask for a ban on publication
14 pursuant to 13 --

15 THE JUDGE: Yes.

16 MR. MCKENNA: -- sub 4.1.

17 THE JUDGE: There will be a ban on publication.
18 Even to the abandonment of the complaint as found by the
19 Court if you like.

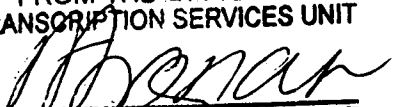
20 MR. MCKENNA: Yes. Thank you.

21 (PROCEEDINGS CONCLUDED)

CERTIFICATE OF TRANSCRIPT

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