

THE PROVINCIAL COURT OF MANITOBA

BETWEEN:

G W. P ,

Applicant,

- and -

THE LAW ENFORCEMENT REVIEW AGENCY,

Respondent.

DECISION OF THE HONOURABLE JUDGE M. RUSEN

FRIDAY, DECEMBER 1, 1995

ROSE GINGELL GILL REPORTING
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COPY

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THE COURT: The complainant, G W.

P made a complaint pursuant to The Law Enforcement Review Act, C.C.C.S.M.c.L. 75, against the eight officers in question in relation to their action and conduct while acting in the course of their employment as police officers with the Winnipeg Police Department on October 28th, 1994.

The complaint was heard by Commissioner Ralph, appointed under the Act. Following his investigation of the circumstances surrounding the complaint, and pursuant to Section 13(1) of the Act, the Commissioner, on November 15th, 1995, notified the complainant of his decision not to go forward with the complaint for the purposes of holding a public hearing into the complaint.

This matter now comes on before me, pursuant to Section 13(3) of The Law Enforcement Review Act, which reads as follows:

"On receiving an application under subsection (2), the Commissioner shall refer the complaint to a provincial judge who, after hearing any submissions from the parties in

1 support of or in opposition to
2 the application, and if satisfied
3 that the Commissioner erred in
4 declining to take further action
5 on the complaint, shall order the
6 Commissioner

7 (a) to refer the complaint for a
8 hearing; or

9 (b) to take such other action
10 under this Act respecting the
11 complaint as the provincial judge
12 directs."

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14 The incident involves an allegation of rude
15 and discourteous conduct by one or more of the officers
16 during the course of their investigation of a potential
17 explosive situation involving the complainant's son, which
18 was directed to the complainant's residence.

19 There is also an allegation that a police
20 officer manhandled the complainant.

21 In conducting the investigation, the
22 Commissioner considered (a) the written complaint of the
23 complainant, (b) statements from police officers.

24 After considering the written material above
25 noted, the Commissioner concluded that there was

1 insufficient evidence to support the complaint, and it
2 therefore followed, after his review of the evidence
3 relative to the complaint, that the police officers did not
4 commit any disciplinary defaults as defined under The Law
5 Enforcement Review Act.

6 The wording of Section 13(3) is suggestive of
7 authority granted to me that it is open for me to review
8 the evidence and basis of the decision of the Commissioner,
9 and to substitute my findings to that of the Commissioner.

10 The decision of Commissioner Ralph can best be
11 characterized as a decision of an administrative tribunal.

12 On my review of the Commissioner's decision,
13 I must be satisfied that the Commissioner did not exceed
14 his jurisdiction, that he followed the rules of natural and
15 procedural fairness, and that he acted within the limits of
16 the Statute, or that the decision reached by the
17 Commissioner was not patently unreasonable or irrational.

18 I have in fact reviewed the evidence before me
19 and the submissions of the complainant and the respondent.
20 I am completely satisfied that Commissioner Ralph exercised
21 his discretion in a judicial manner in determining that the
22 evidence before him was insufficient to support a complaint
23 to justify a public hearing.

24 Pursuant to Section 13(4.1), I am ordering
25 that no publication by any person and the names of the

1 police officers not be published.

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3 (REVIEW CONCLUDED)

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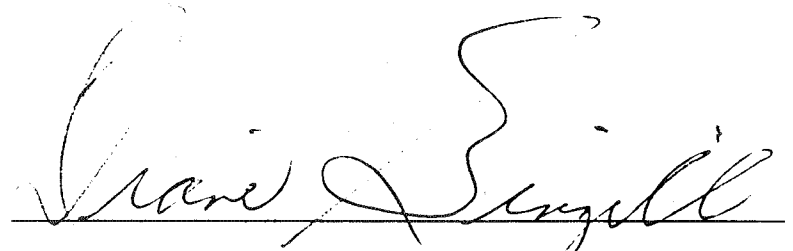
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OFFICIAL EXAMINER'S CERTIFICATE

I, **DIANE GINGELL**, a DULY APPOINTED OFFICIAL EXAMINER
in and for the Province of Manitoba, do hereby
CERTIFY that the foregoing pages of typewritten
matter, numbered 1 to 4, were taken by me at the
time and place hereinbefore stated on the Stenomask.

A handwritten signature in cursive script, reading "Diane Gingell", is written over a horizontal line.

DIANE GINGELL

OFFICIAL EXAMINER Q.B.