

IN THE MATTER OF: Law Enforcement Review Act  
Complaint Number 6181

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

BETWEEN:

G.A.,

Complainant,

- and -

CONSTABLE B. H.,  
CONSTABLE B. G.,  
CONSTABLE E. S.,  
CONSTABLE J. C,  
CONSTABLE J. H., and  
DETECTIVE SERGEANT A. B.,

Respondents.

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EXCERPT FROM PROCEEDINGS, REASONS FOR DECISION,  
delivered by The Honourable Judge Rubin, held at the Law  
Courts Complex, 408 York Avenue, in the City of Winnipeg,  
Province of Manitoba, on the 10th day of May, 2004.

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APPEARANCES:  
MR. G. A., in person  
MR. P. MCKENNA, for the Respondents

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

EXCERPT FROM MAY 10, 2004

THE JUDGE (Orally): The letter was addressed to you and was sent registered mail to St. Pierre, Box 701, and you, I think, signed for it. And it says:

The office last corresponded with you on May 6th, 2003 --

This is June 26th, 2003.

-- at which time you were asked to contact my investigator, Mr. Haslam, within a reasonable length of time. To this date we have not received a response to this request. Therefore, pursuant to s. 13(1)(b) of The Law Enforcement Review Act, I consider your complaint abandoned, thus no further action will be taken. Please be informed that under s. 13(2) of the Act you have a right to make an application to have this decision reviewed by a Provincial Judge. Your application must be received at this office within 30 days from the date of this notice.

Which was June the 26th. That's the Commissioner's decision, sir.

MR. A.: I stand corrected, Your Honour.

THE JUDGE: Yes. Well, no, no. You're not

expected to practice law without a licence but you're allowed to act for yourself, Mr. A., and you did.

The difficulty, quite frankly -- and I attempt to be as frank as I can be with people without being hurtful because it's never my intention to be hurtful to anybody. Mr. McKenna is correct in the sense that The Law Enforcement Review Act requires a compliance of certain time limits, otherwise we can't ever get the act going, so to speak. And while there's some latitude in those times, they can't go on indefinitely because if they do, there's another person at the other end of this whole process, Mr. McKenna's client, the constable who is being sort of hung out to dry awaiting the decision of the Commissioner, because he has no power to do anything about a complaint until the complaint's dealt with.

I mean, the officer can't come and say, Mr. A., I'm sorry that something happened or didn't happen to within your expectations because that's not the appropriate response. How he responds is they retain counsel and counsel appears on their behalf unless it's a hearing. And at the hearing, of course, then the constable comes forward and gives evidence about what took place.

In this particular instance we've had this constable hanging out there, so to speak, to be concerned about his department, his record, his activities all this time, and I think you know, having worked yourself I'm sure, having something like that hanging over your head where it's a job that has a future and has a past, you really don't want that to go on and on indefinitely.

And as a consequence, in your own words, there's nothing that would indicate that the Commissioner's ruling was an inappropriate one in light of the circumstances. And I think regardless of your medical conditions, from the

reports you've just given us and what you've filed with me today, the conditions you're complaining about were something that you've been suffering with for some time, and the whole experience may have exacerbated it to some extent.

I don't think anybody enjoys being broken into, quite frankly, and certainly having a damaged door and your daughter with you that particular night would have been traumatic to some extent. But as you say, I don't think the Commissioner made any errors in terms of what his final decision was on this matter because there had been a continual attempt to get some response from you. And under the reasonableness test, which I have to apply, I can't find anything unreasonable in his decision in that regard.

So as a consequence I'm going to have to indicate that I have found that in my review of this matter and the application, I guess in terms you can understand, is dismissed as a consequence thereof.

And I would say this to you because I know that you have your problems, Mr. A., and hopefully you can get beyond them because you're going to have to carry on and do the best you can. I guess this is gratuitous advice and judges aren't supposed to do that, but from time to time I do because the human being is a concern to us, of course, from this end of the room. But I'd suggest that you attempt to get on with your life as best you can. Put some of these past things behind you so that you can get a view of where you're going and what you're accomplishing for yourself.

And don't give up on the City of Winnipeg; it's really not nearly as bad a place as your own experience has just recently given you. It is a safe community and we have a system set up to the benefit of all citizens and that's our police department, which we all rely on. I mean, it's

not for any certain people; we all rely on it. And if we read our newspapers we see that they are kept exceptionally busy these days in terms of dealing with the problems that exist in our community. But that's gratuitous and, of course, it's probably not appropriate but I do it anyway. All right. Thank you.

(EXCERPT CONCLUDED)

**CERTIFICATE OF REASONS**

These are my reasons for judgment in the case of  
G.A. v. CONSTABLE B. H. ET AL.

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PROVINCIAL COURT JUDGE