

IN THE MATTER OF: *The Law Enforcement Review Act*
Complaint #3013

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

B E T W E E N:

L. J. S.,)	In person, unrepresented by Counsel
Complainant)	
)	
- and -)	
)	
Sgt. R. P.,)	Richard Wolson, Q.C.
Cst. M. S.)	Counsel for the Respondents
Cst. R. P.)	
Respondents)	
)	Sean D. Boyd, Counsel for L.E.R.A.
)	Hearing date: September 2, 2003
)	Decision date: July 27, 2004

Note: These reasons are subject to a ban on publication of the Respondents' names pursuant to s.13(4.1).

Lismer, P.J.

DECISION ON REVIEW

[1] The Complainant applied under section 13(2) of *The Law Enforcement Review Act* to have a Provincial Judge review the Commissioner's decision to decline under section 13(1) from taking further actions on his complaint.

[2] The matter came on for review before me on September 2nd, 2003 at 10:00 a.m. in courtroom 316. The complainant, in custody on unrelated matters, was brought in before me after 11:00 a.m., did not know that he was brought in for this review and was obviously not prepared to proceed even after I refreshed his memory on his complaint.

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

[3] Mr. Richard Wolson, Q.C., took objection to the presence of Denis Guenette as counsel for LERA, to his having an official standing at the review and to my perusal of his submitted brief. I indicated that I saw no problem in the presence of and participation by Denis Guenette and welcomed any assistance he would be able to provide me in my deliberations.

[4] The matter was adjourned sine die for a new date to allow applicant to review the matter, and for Mr. Wolson to consider his position as to whether or not I should be disqualified to continue with the brief because I had perused the brief of the LERA Commissioner.

[5] Subsequently, the complainant, in consultation with counsel Roberta Campbell, communicated his intention to abandon his request for a Judicial Review of the Commissioner's decision.

[6] The matter came up for a formal disposition before me on July 27th, 2004 at 9:00 a.m. in courtroom 403, when the complainant confirmed orally before me that after consulting with his counsel, he wished to abandon his application for the review. He confirmed this in writing in the following words:

I, L.J.S., confirm that I do not wish to proceed with my request for a review of the Commissioner's decision relating to the Law Enforcement Review Agency complaint #3013.

[7] Whereas pursuant to section 13(4) of *The Law Enforcement Review Act*, the burden of proof is on the complainant to show that the Commissioner erred in declining to take further action on the complaint, in the absence of any evidence in support of the complaint, and the complainant confirming before and in writing that he wished to abandon the complaint, the complaint is dismissed.

SIGNED at Winnipeg, Manitoba, this 10th day of November, 2004.

Judge Theodore Lismer