

THE PROVINCIAL COURT OF MANITOBA

IN THE MATTER OF: Law Enforcement Review Act
Complaint No. 3799

AND 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 C ,

Complainant,

- and -

D B , #
M S , #
and COMMISSIONER GEORGE WRIGHT,

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:

MS. D. RETTIE, for the Complainant.

MR. P. MCKENNA, for the Respondents.

MR. D. GUENETTE, for the Respondent Commissioner.

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

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1 can, we can do that. What I'd like to do is take a short
2 adjournment, if you will, perhaps 10 minutes or so and then
3 I'll come back and deal with this matter.

4 THE CLERK: Order. All rise. We'll take a
5 recess.

6 THE JUDGE: Thank you.

7

8 (BRIEF RECESS)

9

10 THE CLERK: We're re-opened. Be seated.

11 THE JUDGE: Well I've given thought and
12 consideration to the process this morning and the evidence,
13 at least the submissions that I've heard, and I've, I've
14 come to these conclusions. Dealing only with the two
15 issues, Ms. Rettie, that you raised, having conceded that
16 the third point wasn't at issue with us, I've concluded that
17 the Commissioner in considering the evidence that he had
18 before him from his investigators and from the statements of
19 the complainant as well as the officers had a reasonable
20 conclusion to reach in that Mr. C was displaying those
21 symptoms which would normally have, have led the officers to
22 conclude that he was under some disability on the street and
23 the odor of liquor would have confirmed that to some extent
24 as well as his behaviour. He was extremely uncooperative
25 during their, their attempt to placate him and, and, and
26 resolve the street issue. They offered, in fact, to drive
27 him home and put an end to the -- to his discomfort and
28 dismay that particular night, which the Commissioner had to
29 consider. Having regard to the fact that he was -- he had
30 reason to be staggering, which they weren't aware of, he --
31 they had no knowledge of his medical conditions, nor were
32 they, were they aware of it, it's my conclusion that the --
33 that they acted reasonably in the circumstances on the
34 evidence that they had and that the Commissioner's

1 consideration of that evidence is a, is a -- is an
2 appropriate one. Likewise, we complain about oppressive
3 and, and language, although being a fucking asshole is
4 certainly not language we would recommend for use by the
5 police -- by a policeman or any public servant towards a, a
6 citizen in, in the, in the ordinary course of things. In
7 these particular circumstances where the complainant was
8 being obstreperous and difficult, resistant, and verbalizing
9 probably things that he wouldn't say if he hadn't been as
10 distressed as he was and perhaps, who knows, the alcohol may
11 have triggered some of the words, I think in those
12 circumstances having regard to the entire picture of the
13 behaviour of the complainant, including the same sort of
14 difficult behaviour at, at the *X Address* facility, I
15 can't conclude anything other than the fact that the
16 Commissioner's review was appropriate and that his decisions
17 were, were in keeping with the spirit of the Act, and as a
18 consequence I am not prepared to order a further inquiry on
19 this matter.

20 THE JUDGE: Gentlemen, thank you.

21 (PROCEEDINGS CONCLUDED)

CERTIFICATE OF TRANSCRIPT

I, **WENDY FALKNER**, hereby certify that the foregoing pages of printed matter, numbered 1 to 24, 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, Mary Evans, and has been transcribed by me to the best of my skill, ability and understanding.

W. Falkner

COURT TRANSCRIBER

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