

MEMORANDUM


October 1st, 2002

TO: George Wright
Commissioner, L.E.R.A.

FROM: Judge Catherine Everett

Re: **Review - Sept. 3rd, 2002 at 10:00 a.m.**
S.M. # 5502

Attached is a transcript articulating my reasons for dismissing this application for review



for Judge Catherine Everett

/mrb

1 EXCERPT FROM SEPTEMBER 3, 2002

2

3 THE COURT: Ms. M my job here today is to
4 decide whether the commissioner, to put it simply, made any
5 mistake in the way he conducted the review of your case or
6 whether his decision was unreasonable or whether he exceeded
7 his jurisdiction, I am trying to put it in simple words,
8 whether he did something that he did not have the power to
9 do. That is my job here today, it is not to look back
10 through all of the evidence myself, but I am sitting in
11 review on the commissioner's decision.

12 I have his file and before I even came into court
13 today I reviewed everything that he had done and all of the
14 notes and every phone call and every contact they had with
15 you as recorded in the file, I have looked at all of that.
16 They interviewed the other witnesses that were involved and
17 I have reviewed all of that and I have heard what you have
18 had to say today about the case and even though I am not
19 rehearing the case, I did let you tell me everything all
20 over again that happened on that night and I am satisfied
21 that the commissioner, in looking at your case, did not step
22 outside of his jurisdiction, he acted within the limits of
23 the power he has been given, that is what that means. I am
24 satisfied that he has thoroughly investigated your case, he
25 followed the rules of procedural fairness and I am satisfied
26 that the decision he made to take no further action was not
27 unreasonable, in fact it was, I might say, extremely
28 reasonable given what the lawyers pointed out, there is many
29 inconsistencies in the case, not to review the case all over
30 again, there is contradictions and inconsistencies between
31 what you say and between what even the other independent
32 witness says.

33 So I am dismissing your application. There is no
34 basis for this review, none, none at all. So we have heard

1 what you have had to say, I have considered it carefully. I
2 have applied the law and I am rejecting the application.
3 Thank you.

4 MR. MCKENNA: Your Honour, may we just perhaps on
5 the record have that the ban on publication is continuing.

6 THE COURT: Yes. The ban on publication order --
7 I believe it's 13(4).

8 MR. MCKENNA: (4.1), yes.

9 THE COURT: 13(4.1) is continued. Thank you --

10 MR. MCKENNA: Thank you.

11 THE COURT: -- for pointing that out to me. Thank
12 you.

13 MS. M. So do I have to go through some human
14 rights group for this? Because I do have human rights.

15 THE COURT: Well --

16 MS. M. To continue on with this. Because I
17 don't lie and I will state all this facts in front of my
18 church congregation, so I'll find somebody that will help
19 me.


20 THE COURT: Okay, that's fine. Thank you.

21 (EXCERPT CONCLUDED)

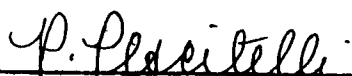
CERTIFICATE OF TRANSCRIPT

I, GAIL DAYTON, hereby certify that the foregoing pages of printed matter, numbered 1 to 2, 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, Donna Jorgerson, and has been transcribed by me to the best of my skill and ability.

CERTIFIED COURT TRANSCRIPT
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