

Jeff Chappell
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OFFICE OF THE INDEPENDENT
POLICE REVIEW DIRECTOR

MAY 27 2014

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WATERLOO REGIONAL POLICE SERVICE

**In The Matter of a Misconduct Hearing under Part V of
the *Police Services Act*, R.S.O. 1990, c. P.15**

**And In The Matter of a Complaint Made by Mr. Jeffrey Chappell
and Consequent Allegations of Misconduct against
Sergeant John Van Breda #620 and Constable Michael Murphy #1360**

DECISION AND REASONS

Hearing Officer: Staff Inspector Brian Fazackerley,
Durham Regional Police Service (Retired)

Prosecutor: Mr. Gary Melanson, WRPS

Defence: Mr. Glen S. Donald, Barrister and Solicitor

Background

[1] As a result of a public complaint made by Jeffrey Chappell regarding his interaction with two uniformed members of the Waterloo Regional Police in October, 2012, these misconduct proceedings were commenced. The direction to convene the hearings came from the Office of the Independent Police Review Director ("OIPRD") pursuant to the procedures contained in Part V of the *Police Services Act*.

[2] Notices of Hearing were issued to Sgt Van Breda and PC Murphy on August 29, 2013, directing them to appear before me on November 7, 2013.

[3] Each Notice contained two identical allegations of Neglect of Duty: one for failing to secure medical assistance for Mr. Chappell and one for failing to make necessary notebook entries and make an occurrence report pertaining to the arrest of Mr. Chappell, all occurring on October 13, 2012.

Hearing

[4] When the hearing convened only the prosecutor and defence counsel were present along with the Reporter.

[5] Mr. Melanson first indicated that, on consent of the parties, the two Notices of Hearing would be dealt with in a composite hearing. Mr. Donald consented to this on the Record.

[6] I was advised by Mr. Melanson that the two officers were content not to be present at the hearing. Mr. Donald confirmed this.

[7] I was further advised that Mr. Chappell one day earlier had made an unequivocal indication to Mr. Melanson that he was waiving his right to be present at the hearing. Mr. Chappell did not attend.

[8] A total of six (6) exhibits were marked, being the Notice of Hearing, Hearing Officer Authorization and Prosecutor Designation in respect of each officer.

[9] Mr. Melanson then advised that, sometime after service of the Notices of Hearing, Mr. Chappell had approached Mr. Melanson and disclosed new information not known by the OIPRD when the decision was made to convene the hearings.

[10] Mr. Melanson consulted with the OIPRD and shared this information. In the result the OIPRD, by e-mail sent October 30, 2013, authorized that the two counts of misconduct against each of Sgt Van Breda and PC Murphy be withdrawn by the prosecution before the tribunal at the pending first appearance. Mr. Melanson requested that all counts be marked withdrawn.

[11] Mr. Donald confirmed his knowledge of these facts and that he had read the e-mail from the OIPRD.

[12] Mr. Melanson further indicated that there were certain aspects of the original complaint that were being treated by the chief of police as misconduct not of a serious nature and were going to be dealt with less formally under Part V. Mr. Melanson indicated the OIPRD was aware of and content with this way of proceeding. Mr.

Chappell was also aware of it and was taking no position on it, according to Mr. Melanson. Mr. Donald indicated his knowledge and understanding of these facts as well.

[13] There being no other submissions raised, I marked all four (4) counts of misconduct as withdrawn and declared the proceedings determined.

Dated at Markham this 8th day of November, 2013.

A handwritten signature in black ink, appearing to read 'B. Fazackerley', with a stylized flourish at the end.

Brian Fazackerley, S/Insp. (Ret)