



HEARING DECISION

Dismissed

Name: Michael KIPROFF

Rank: Police Constable

Badge Number: 99416

Case Number: 5/2012

Hearing Date: 2013.06.23

Hearing Officer: Inspector S. ELEY

Prosecutor: Mr. B. GOVER

**Defence Counsel:
Or Representative** Mr. P. BRAUTI



**DECISION IN THE CASE OF:
CONSTABLE MICHAEL KIPROFF (99416)
HEARD BEFORE: INSPECTOR STUART ELEY
ON: 2014.06.23**

**REPRESENTATIVE/
DEFENCE COUNSEL:**

MR. P. BRAUTI

SERVICE PROSECUTOR:

Mr. B. GOVER

**CASE NUMBER AND
CHARGES:**

2012.05

CHARGE 1

**UNLAWFUL/UNNECESSARY EXERCISE
OF AUTHORITY**

Mr. Gover, the Service prosecutor, advised the Tribunal that this case was a complaint filed with the Office of the Independent Police Review Director (OIPRD).

On June 23, 2014, the officer pled not guilty. The prosecutor advised that after review of the file he had concerns that there was no reasonable prospect of conviction in relation to the charge. The complainant, Mr. Jesse Miller, complaint relates to an action grabbing the hair at the back of his and smashing his face into the pavement three times and deliberately smashing of his cell phone. The photographic evidence shows that Mr. Miller did suffer injuries to his face. Other than the fact that Constable Kiproff's badge number appears on the white board depicted in the curb side prisoner photograph there is nothing to connect Constable Kiproff to Mr. Miller's arrest and Mr. Miller cannot identify the officer who allegedly used unnecessary force against him and the video evidence depicts either Public Order Unit or plainclothes officers interacting with Mr. Miller whereas Constable Kiproff was in uniform on June 27, 2010. There is no evidence about how this officer's badge number got on the white board for the curb side arrest photograph.

The prosecutor interviewed Mr. Miller and his wife who had been with Mr. Miller when he was arrested. The interviews confirmed that there was no evidence other than Constable Kiproff's badge number on the white board that links him to the conduct about which Mr. Miller has complained. At the end of the interview the prosecutor explained to Mr. Miller that the case against Constable Kiproff is untenable, Mr. Miller indicated to the prosecutor that he did not wish to proceed with the case.

The prosecutor contacted the senior counsel at the OIPRD and explained his view of the case, and the OIPRD stated that given the difficulties in proving the case and with the understanding that Mr. Miller is content that the matter not proceed any further the Director was agreeable to a withdrawal of the Notice of Hearing (Exhibit 3).

The prosecutor had asked Mr. Miller to confirm in writing that he did not wish to proceed with the case sent Mr. Miller a letter dated June 9, 2014, in his letter he reminded Mr. Miller that the hearing was scheduled to commence on June 23, 2014 and stated that if he did not hear from him the prosecution would be calling no evidence against Constable Kiproff and the charge would be dismissed as a result (Exhibit 4). Mr. Miller has not responded to the letter. The prosecutor stated that the fairest thing to do is to indicate that I intend to call no evidence in relation to this charge and with the inevitable result that the charge be dismissed.

Based on these submissions, the Hearing Officer accepted the position of the prosecution and the charge was marked dismissed.


fo Stuart Eley
Inspector
Hearing Officer