

JAN 17 2017

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**IN THE MATTER OF ALLEGATIONS OF MISCONDUCT  
AGAINST SERGEANT RICHARD ROWSOME #8064**

B E T W E E N:

SERGEANT RICHARD ROWSOME

Subject Officer

- and -

THE TORONTO POLICE SERVICE

Police Service

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**REASONS FOR DECISION**  
**(The Honourable Colin L. Campbell, Q.C.)**

1. This matter proceeded before me as designated Hearing Officer based on a plea of guilty of the following Count #3 as follows:

(3) FURTHER YOU ARE ALLEGED TO HAVE COMMITTED MISCONDUCT IN THAT YOU, on April 24, 2011 engaged in neglect of duty in that you failed to work in accordance with orders contrary to subsection 2(1)(c)(iii) of the Code of Conduct, O. Reg. 268/10, as amended and, therefore contrary to subsection 80(1)(a) of the *Police Services Act*, R.S.O. 1990, c. P. 15, (the "Act") as amended.

STATEMENT OF PARTICULARS:

On April 24<sup>th</sup>, 2011 Mr. Keith Ryan (the "Complainant") was arrested for an assault on PEO Devon Henry (the "PEO"). Constable Ramos, accompanied by Sergeant Facchetti, transported the Complainant to 14 Division.

At 14 Division Constable Ramos and Constable Kharbar removed the Complainant from the scout car.

While the Complainant was in the search room for the purpose of a level 3 search he was assaulted by the PEO in the presence of Constable Ramos and Constable Kharbar.

After the PEO assaulted the Complainant, Constable Ramos and Constable Kharbar took the Complainant to the ground hard.

Sergeant Rowsome was negligent in his duty to keep the Complainant safe while he was in his custody.

2. The plea if accepted including with respect to penalty would permit withdrawal of the other counts.

3. The facts are as set out in an Agreed Statement of Facts marked Exhibit 4 and attached as Appendix "A".

4. Following submissions from both counsel and with the concurrence and agreement of the Complainant, the plea and joint submission of seven (7) days or fifty-six (56) hours was accepted.

5. The following are the reasons for acceptance of the joint submissions:

6. Section 85(1)(f) of the *Police Services Act* states:

Subject to subsection (4), the chief of police may, under subsection 84(1),  
(f) direct that the police officer forfeit not more than 20 days or 160 hours  
off, as the case may be.

7. I accept that consistency of penalty dispositions is an appropriate penalty consideration.

Consistency in the discipline process is often the earmark of fairness. The  
penalty must be consistent with the facts, and consistent with similar cases  
that have been dealt with on earlier occasions.

*Constable Fredrick Schofield and the Metropolitan Toronto Police*, OCPC  
#84-12 at p 4.

8. Likewise, in *Constable Peter White and Constable Tomas (Scott) Reid v. Windsor Police Services*, the Commission stated:

The penalty also must be consistent with similar cases in order to maintain  
consistency in sentencing. While fact situations vary, a spectrum of  
misconduct and resulting penalties can provide a good comparative  
analysis to assist the Commission in determining an appropriate and fair  
penalty.

*Constable Peter White and Constable Tomas (Scott) Reid v. Windsor  
Police Service*, OCPC #00-09 at P11.

REASONS FOR DECISION  
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9. I have reviewed those cases referenced by counsel which may be considered as comparatives.
10. In each of the cases the facts are different. Nevertheless, I am satisfied that as far as they may be considered comparators the penalty here falls within what may be regarded as an appropriate range.
11. There are a number of factors that a Hearing Officer should take into account when considering sentence. These factors include:
  - a) public interest;
  - b) employment history;
  - c) seriousness of the misconduct;
  - d) lack of remorse;
  - e) rehabilitation potential;
  - f) general and specific deterrence.
12. I am satisfied that the public interest in this matter is served particularly with the concurrence and agreement of the Complainant.
13. I am more than satisfied with Sergeant Rowsome's employment history both past and present particularly the awarded assessments with respect to his personal qualities and technical skills which in most instances exceeded expectations.
14. I am satisfied that this is a serious offence which has been recognized by Sergeant Rowsome both by his plea and the remorse he noted in his interview with the OIPRD.
15. Sergeant Rowsome's plea has recognized the impact on the Toronto Police Service which has been ameliorated by his additional training and performance reviews.
16. The plea penalty in this case does serve to meet the test for both specific and general deterrence.
17. In all the circumstances, I am satisfied to accept the plea and joint submissions as to sentence referenced above.

REASONS FOR DECISION  
(The Honourable Colin L. Campbell, Q.C.)

Dated at Toronto this 10th day of January, 2017.



\_\_\_\_\_ The Honourable Colin L. Campbell, Q.C.

Hearing Officer

**AGREED STATEMENT OF FACTS  
SERGEANT ROWSOME #8064**

On April 23, 2011, at approximately 9:30pm, Sergeant Rowsome commenced duty at 14 Division. During the period of duty between 9:30 pm and 6:30am the following morning, Sergeant Rowsome was the duty-booking sergeant.

At approximately 1:00 am on April 24, 2011, Sergeant Rowsome was in the booking hall at 14 Division when Constable Ramos and Constable Kharbar arrived with a prisoner, Mr. Keith Ryan ("Mr. Ryan"). Constable Konashewych was the booking constable and he was present when Constable Ramos and Constable Kharbar arrived with Mr. Ryan.

Mr. Ryan was paraded before Sergeant Rowsome. Constable McFadyen who had been involved in the initial arrest of Mr. Ryan, was behind Sergeant Rowsome and out of camera coverage. At the time of Mr. Ryan's arrest Constable McFadyen was in a relationship with Mr. Ryan's ex-girlfriend, and Constable McFadyen had informed Sergeant Facchetti of the connection. Sergeant Facchetti directed Constable McFadyen to have no or limited contact with Mr. Ryan. Sergeant Rowsome made no inquiries as to why Cst. McFadyen was present in the booking hall.

On Mr. Ryan's arrival at the booking hall, Constable Ramos requested that Mr. Ryan remain seated while he was paraded before Sergeant Rowsome. Constable Ramos stated that the reason for the request was that Mr. Ryan had been uncooperative.

Mr. Ryan stated that he did not know the reason for his arrest. Sergeant Rowsome informed Mr. Ryan that he was arrested for assault on a peace officer. Mr. Ryan understood his rights to speak to a lawyer. Mr. Ryan alleged that his face had been spilt open, however, Sergeant Rowsome noted that there were no cuts to Mr. Ryan's face.

Sergeant Rowsome noted that there was some redness to Mr. Ryan's forehead. Constable Ramos stated that Mr. Ryan had been uncooperative and that he had some redness to his forehead from being held on the hood of the scout car. Sergeant Rowsome asked Mr. Ryan about medical conditions and ascertained that Mr. Ryan had asthma, but was not suffering from it at that point in time. Sergeant Rowsome asked Mr. Ryan questions about his alcohol/drug intake and about his mental health.

Constable Ramos requested a level 3 search of Mr. Ryan because of the nature of the offence, to prevent the continuation of the offence and because there was violence involved in the offence.

Sergeant Rowsome informed Mr. Ryan that he would be searched off camera in an adjacent room to the booking hall and Mr. Ryan was led to the bullpen by Constables Ramos and Kharbar.

AGREED STATEMENT OF FACTS  
SERGEANT ROWSOME #8064

The cameras were deactivated for the search. Sergeant Rowsome remained in the booking hall area. Sergeant Rowsome's attention was drawn by a noise coming from the bullpen area that sounded like a fight. Sergeant Rowsome moved toward the bullpen to ensure that the officers were safe and provide assistance. As he moved toward the bullpen, Sergeant Rowsome met Parking Enforcement Officer Henry ("PEO Henry") exiting the bullpen. Sergeant Rowsome did not know PEO Henry.

Sergeant Rowsome looked into the bullpen and saw Mr. Ryan face down on the ground with his head toward the bullpen door. Constable Ramos and Constable Kharbar were restraining Mr. Ryan. Sergeant Rowsome asked the officers if everything was okay and the officers replied that everything was fine.

Sergeant Rowsome returned to the booking hall counter and waited for the search to finish.

When one of the officers voiced out that the search was complete the cameras were activated. Constable Kharbar and Constable Ramos returned to the booking hall. Mr. Ryan was seated on the bench. Constable Ramos reported that the level 3 search was complete and that no evidence or money had been located. Constable Ramos reported that Mr. Ryan had a fresh injury to his left eye and had a small cut under his eye. Sergeant Rowsome also noted a bump to Mr. Ryan's right eye. Constable Ramos reported that Mr. Ryan was resistive during the search and that the injury was the result.

Sergeant Rowsome did not make any further inquiry with regard to Mr. Ryan's injuries. Sergeant Rowsome accepted Constable Ramos's report and asked for the badge number of the officer who would complete the injury report. The badge number provided was badge #9751 (Constable Ramos).

Sergeant Rowsome informed Mr. Ryan that he would be taken upstairs where he could make reasonable use of the phone and would be spoken to by detectives.

At approximately 3:05 am on April 24, 2011, Constables Ramos and Kharbar approached Sergeant Rowsome. The officers advised Sergeant Rowsome that PEO Henry had entered the bullpen and assaulted Mr. Ryan during the level 3 search. Sergeant Rowsome reported the matter to Staff Sergeant Tulipano and had no further dealings with the incident.

Sergeant Rowsome was under a duty to protect Mr. Ryan and keep him safe while in his custody and control. Under the Toronto Police Service Policy 01-03 (Persons in Custody) the booking officer is responsible for the booking, lodging and safekeeping of prisoners. Sergeant Rowsome failed to do comply with the service policy and keep Mr. Ryan safe.

AGREED STATEMENT OF FACTS  
SERGEANT ROWSOME #8064

Mr. Ryan was transported to St Michael's Hospital in the early hours of April 24, 2011. Mr. Ryan suffered a black left eye, swollen left face, left bleeding eye, swollen left temple, a two inch cut under his left eye, broken left orbital bone, cracked right cheek bone, sprained left knee, sprained right ankle, bruising on his left lower bicep, bruising on his right elbow, left rib pain and a round scrape on his left upper buttock.

During his interview with the OIPRD, Sergeant Rowsome stated that:

on a personal note and professional note that I, I know that I didn't do my job, that I know that that booking hall um, is, is my responsibility what happens in there and um, I didn't see that Parking Officer come in that room and I should've, there should've been um...it should've been in place that that wouldn't be allowed. After that happened um, from then on there's a there's a large door that locks with a, a jail cell like key that you could close that booking hall door and lock it and no one can come in even if they wanted to. Um, that was part of the casual attitude that was around uh, 14 Division um...I, I wish that I, that I had had that made that area s'...secure so that the conditions weren't there for that to even happen in the first place and certainly after I uh, seen him leaving the, the bull pen area I wish to hell that I had of stopped him and, and made some inquiries to him and to the officers of what his reason was or his purpose for being in there.

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