

Judge acquits Halton constables in sweatbox incident with police van

By LORI TAYLOR
Herald staff writer

Two Halton Regional Police constables have been acquitted on charges of discreditable conduct and neglect of duty in connection with alleged mistreatment of prisoners being transported to Metro West Detention Centre August 14.

Constables Raj Swaminathan, 39, and Arnold Vanclief, 35, were found not guilty in connection with allegations by a dozen prisoners that the two constables had driven the police van to Toronto with the heater on in spite of temperatures in excess of 90 degrees that day. The prisoners also accused the officers of fastening their handcuffs too tight, and of deliberately driving in an erratic manner to cause the prisoners discomfort.

SMALL MISJUDGEMENTS

In his decision, Chief County Court Judge William Colter said there wasn't sufficient evidence to convince him that what he termed "the accumulation of small misjudgements" on the part of the two officers "has brought discredit upon the reputation of the Halton Region Police Force or justifies a conviction of neglect of duty as a major offence".

None of the allegations of the prisoners about the turning on of the heat, the fastening of the handcuffs and the deliberate braking of the van were proven beyond a reasonable probability Judge Colter said.

The trial lasted seven and a half days, including the concluding arguments, and 46 witnesses appeared during the proceedings. William MacDonald, Q.C., acted on behalf of the two constables, with Douglas McConachie, Q.C., appearing for the commission.

In giving his reasons for his decision, Judge Colter said, "After the event, it is always possible to look back and find courses of action preferable to those actually followed". However, he said, in view of the serious nature of the charges against the two officers, the case should have been based upon "serious and important events, rather than on a number of small incidents gleaned by a minute scrutiny of a whole day's conduct under stress".

Judge Colter said the resentment of the inmates obviously began at the Milton courthouse where they were appearing at hearings in provincial court, when their tobacco and cigarettes, and other personal belongings were taken away from them, and the hostility "escalated rapidly thereafter".

The judge said that he was convinced that the inmates honestly believed the heater was on in the van during the return trip to Toronto but that he could not find a strong probability that the constables had turned it on. He said that because of the way the heating system was set up, the inmates could easily receive the impression that the heater was on when this was not the case.

When it came to the sudden braking of the van, however, the judge was more doubtful about the officers' conduct.

"Vanclief's level of intelligence did not particularly impress me and I can imagine him having a little fun with these 'smart-alec' passengers in the van, by shaking them up a bit with the brakes," the judge

said. He also said, however, that Constable Vanclief's practice of pumping the brakes of the van is the normal way to bring a heavy vehicle to a stop.

Judge Colter said he didn't blame the constables for shutting the communications window between the front and the back of the van, after he heard testimony that the prisoners yelled racial insults at Constable Swaminathan, who is originally from Sri Lanka and spat at the two officers through the window.

Mr. McConachie said that the placing of a jacket over the communications window, and the fact that the two officers kept the window closed for the duration of the trip was a neglect of duty, because the officers were not aware that opening or closing the window would have no effect on the ventilation in the back of the van, as was established in testimony from Professor A.D. Allan.

Judge Colter said it was clear from Professor Allan's testimony that the heating system in the van, the only van available for use in Halton Hills and Milton, was "very inefficient and unreliable". According to evidence from Professor Allan and other maintenance people who had worked on the van, the faulty system could deliver heat to the rear section of the van without anyone turning on the heater, because of the way the system was constructed.

ENCLOSED SPACE

Even not taking the possibility of the heater being on into consideration, the judge said, with the number of people in a small, enclosed space, particularly prisoners engaged in such physical activity as rocking the van back and forth and kicking at the doors to get some air, the temperature in the back of the van would rapidly become uncomfortable. One of the inmates Griff Branch, who could not be located to testify at the hearing, fainted just before the van arrived at Metro West Detention Centre.

Judge Colter said he had trouble with the inmates' allegations that their complaints about the heat in the back of the van were completely disregarded by the two officers. However, he said, "It is difficult to suggest a better course for the constables to take than to proceed to the detention centre". The pounding on the rear of the van and the shouted complaints apparently didn't begin until the van was past the halfway point in the trip.

Because there were, among the inmates in the van, four who had successfully escaped from Maplehurst Detention Centre, the judge said, once the van had passed the halfway point of the trip, it was safer to continue, rather than stopping on Highway 401 to let the prisoners get some air. The judge also mentioned that the constables might have interpreted the prisoners' shouts as part of a plan to enable the four escapees to try again; the officers had been informed by their superiors that a warning had been received from another force that one of the inmates might attempt an escape with a gun smuggled to him at the court house during the course of the day.



BROWNIE ENROLLMENT

Enrollment of new members was part of the Thinking Week celebrations for 1st Glen Williams Brownie Pack last week. New members are front row from the left: Jennifer Goodfellow, Jennifer Campbell and Karen Rudman. Back row from the left: Stephanie Lefflam, Ardienne Little, Julie Anderson and Lynn Schenk. (Herald photo)

Business association gets knuckles rapped

A representation to the Committee of Adjustment concerning a re-zoning application has earned the Georgetown Business and Professional Association a rap on the knuckles from its sponsor, the Georgetown Chamber of Commerce.

It was learned at the group's recent meeting that Chamber of Commerce president George Gray felt the group had exceeded its mandate by going to the Committee of Adjustment's Jan. 31 meeting and asking that restrictions of some sort be put on the amount of retail space which a commercial business may operate in an industrial area.

Association chairman Murray Lawton said that he made no objection to an application for a minor variance which would allow George and Margaret Howie, owners of Alad-

din Lighting, to use their Guelph Street property as a retail outlet. What he has asked on behalf of the association was that some of restriction be put on the amount of retail space a business can have in an industrial zone.

NO WAY

There is no way businessmen in a commercial zone paying commercial zone taxes can compete with a merchant paying industrial zone taxes, he said. Thus members of the association list unnecessary re-zoning of industrial land into commercial land as their number one priority problem to deal with. It was for this reason that he made the presentation on the association's behalf, Mr. Lawton said.

Mr. Gray however, feels that the group has exceeded their mandate and thus plans to debate whether the association should remain an autonomous body under the Chamber or become an entirely separate entity. This is scheduled to happen at the chamber's next

board of director's meeting in early March.

During the association's meeting at the North Halton Golf and Country Club Thursday evening vice-chairman Rick West's Jan. 28 letter of resignation was read and accepted.

Mr. West said he was appointed to the Committee of Adjustment the beginning of the year and the Jan. 31 meeting was his first since he became a member. He wrote his letter of resignation when he discovered that a possible conflict of interest could arise due to his position on the association executive.

"I resigned from the executive," he said, "but as a member of the town's business community I'm certainly not going to stop attending association meetings."

Mr. West is also a director of the Chamber of Commerce and was selected as the liaison person between the chamber of the association when it was set up in November.

Centre needs money

The future of Georgetown's successful and widely-respected North Halton Contact Centre has been jeopardized by financial constraints that have led the provincial government to cancel \$2,500 worth of annual support funds.

The Contact Centre is, as a result, appealing to members of the public as well as local commerce and industry for donations to cover the loss, so that the centre can continue its valuable service.

A spokesman for the five-year-old centre explained that the government has decided the Georgetown-based operation does not qualify as an information centre because of its work in responding to distress calls. Grants totalling \$2,500 a year would be discontinued, centre officials were told, unless the Contact Centre devoted itself to the provision of information only.

Local officials maintain that answering distress calls constitutes the more important and valuable aspect of the centre's work, the spokesman reported, and have withdrawn their grant application.

Area residents wishing to assist the Contact Centre in continuing its work on the community's behalf can forward donations to its directors at Post Office, Box 85 in Georgetown.

Board postpones mileage increase

The Halton board of education referred a motion to increase the mileage allowance of its employees to the board finance committee for discussion.

The motion suggested that the mileage allowance for board employees, which includes trustees who use their own cars on board business, be increased by one-half cent for the first 5,000 miles, from 22 cents to 22.5 cents, and by two cents, from 16 cents a mile to 18 cents, thereafter.

The recommendation by superintendent of finance Bruce Lindley almost didn't receive a mover and a seconder, in which case the proposal would not have been discussed or voted on.

Mr. Lindley said the proposed increase was "just a matter of trying to keep mileage payments in line with increasing costs".

ESTIMATED INCREASE

The estimated increase over the amount budgeted for this purpose last year is eight per cent, or about \$14,000.

Halton Hills trustee Barry Shepherd said that as a member of the board finance committee he had been involved in lengthy discussions over items calling for an expenditure of less than \$14,000, and he said he was unable to support the proposal.

The board voted to refer the recommendations to the finance committee for discussion. Halton Hills' other trustee,

Betty Fisher, said after the meeting that she hoped the finance committee would give some consideration to the fact that the members of the board who live further away, specifically the trustees from the northern part of the region, are being, in essence, penalized because of where they live.

Because the trustees in the north have a longer distance to travel to get to the board office, they reach the 5,000-mile mark more quickly than the trustees in the south, and are thereafter paid a lesser rate. Mrs. Fisher said she doesn't support an increase of the present mileage rate, which she believes is quite adequate, but she said she would like the finance committee to look into this seeming inequity.

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