

Assault conviction lands cop suspended sentence

BY DAWN LIERSCH
Staff Writer

A drunken off-duty York Regional Police officer who kicked a Richmond Hill man and called him "n-----", got off lightly by not being sentenced to jail, his victim says.

Ken Kyle, a staff-sergeant with 26 years on the force, received a suspended sentence of one year probation for an assault conviction and is to continue treatment for drinking and counselling for depression. He also received a \$1,200 fine for an impaired driving conviction and is banned from driving for one year.

"There's no justice for me... I live my life in fear now. Dealing with people in law enforcement scares me," said Dwight Hartley, the

man Kyle assaulted in a Newmarket parking lot last April.

"Justice for me would be to go home tonight knowing that man is not in law enforcement."

Although Kyle still faces a discreditable conduct charge at an upcoming police disciplinary hearing, Hartley is convinced the veteran police officer will not lose his job because he was not sentenced to jail.

Defence lawyer Harry Black had said Kyle would lose his job if jailed and had urged O'Hara to hand him a conditional discharge on the assault charge.

While Mr. Justice Terence O'Hara did not agree to the discharge, he handed down a

suspended sentence because Kyle pleaded guilty and wrote a letter of apology to Hartley.

"This apology isn't just empty words. It was coupled with a guilty plea with real consequences... knowing his job was very much at risk," O'Hara said. "I believe this was not an easy thing for him to do."

O'Hara said he believed Kyle's drinking was exacerbated by a family disaster seven years ago. Kyle's daughter, Angela, and two friends were seriously injured in 1993 when their car was struck by two off-duty police officers who were speeding.

"I believe this incident shook up Mr. Kyle. He realized his life had just descended into the pit... He lost control. He lost vestige of

judgment and he struck out at the nearest target."

O'Hara also said the incident did not seem to be racially motivated because Kyle did not specifically seek out a black man as a target. The incident arose when Kyle became upset because Hartley tried to report him to the police for drunk driving. Kyle, whose blood-alcohol level was more than twice the legal limit at the time, bumped into Hartley's car near Davis Drive and Main Street in Newmarket.

Hartley likened the sentence to a slap on the wrist and said the justice system failed him. He claimed he still intends to sue for damages.

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