

**PEEL REGIONAL POLICE SERVICE DISCIPLINE HEARING
IN THE MATTER OF ONTARIO REGULATION 268/10**

**MADE UNDER THE *POLICE SERVICES ACT*, RSO 1990,
AND AMENDMENTS THERETO;**

IN THE MATTER OF

PEEL REGIONAL POLICE SERVICE

AND

CONSTABLE DARRELL CORONA #3777

DISCREDITABLE CONDUCT

DISPOSITION WITH REASONS

Before: Superintendent (Ret.) Greg Walton
Ontario Provincial Police

Counsel for the Prosecution: Ms. Sharon Wilmot

Counsel for the Defence: Mr. Peter Brauti

Hearing Date: May 10, 2022

Allegations of Misconduct (amended)

Discreditable Conduct

It is alleged that Constable Darrell Corona, #3777 committed the following act of misconduct contrary to section 80(1)(a) of the *Police Services Act*, R.S.O. 1990 P.15, as amended, in that on January 24, 2019, without good and sufficient cause, he conducted a search that exceeded his lawful authority, constituting an offence against discipline as prescribed in section 2(1)(a)(xi) of the Code of Conduct, Ontario Regulation 268/10 as amended.

Plea / Joint Penalty Position

Constable Corona faced eight counts of alleged misconduct. The Notice of Hearing was amended to reflect the allegations as noted in the one count of discreditable conduct as mentioned. Following a plea of guilty and a finding of guilty, the seven remaining counts of misconduct were withdrawn.

Constable Corona was represented at this hearing by Mr. Peter Brauti. Ms. Sharon Wilmot represented the Peel Regional Police Service as prosecutor, and together, they submitted a joint penalty position consisting of a forfeiture of 96 hours, and the competition of an approved training course.

NOTE: Ms. Wilmot noted that there is a public complainant in this matter; the complaint was received by the Office of the Independent Police Review Director, however, the complainant no longer wished to participate and shall not be considered a party for the purpose of this hearing.

Agreed Statement of Facts (amended)

Constable Corona #3777 began his career with the Peel Regional Police Service as a cadet in 2012. He has spent his career working in various uniform platoons at 12 Division. In June 2019 he was transferred to 12 Division Criminal investigation Bureau.

On January 24, 2019, Constable Corona was part of a pro-active policing initiative at the "Studio 6 Motel" located at 60 Britannia Road East in Mississauga. He was working in uniform and operating a marked police car with Cadet Sneh Patel, #4243.

Studio 6 Motel is known as a problem location for drugs, prostitution, and violence. The landlords requested an enhanced police presence and provided police with authority under the *Trespass to property Act* to remove people who attended the address without a lawful purpose.

At the beginning of his shift, Constable Corona received an internal "Party for Identification" bulletin in relation to an armed robbery with a handgun which included a photograph of the suspect.

While at the Studio 6 Motel, Constable Corona had an interaction with a female party who was working as an escort. He discovered she had an outstanding warrant in Waterloo. The female party agreed to attend Constable Corona's cruiser to deal with the matter. Constable Corona learned the Waterloo Regional Police Service would not be seeking the individual's return. Constable Corona confirmed with his staff sergeant that the Peel Regional Police Service would not return the individual. As a result, the party was not arrested.

At approximately 4:56 p.m., the complainant in this matter exited the main entrance of the Studio 6 Motel and began walking toward his vehicle. In and about the same time, Constable Corona released the female party from his cruiser. He watched as the female party and the complainant appeared to look at each other in a familiar manner. Constable Corona believed that the complainant may have been one of the female party's customers and decided to question him regarding the *Trespass to Property Act* and his reason for being at the Studio 6 Motel.

Constable Corona drove the police car forward from his parking spot and parked behind the complainant's vehicle. As Constable Corona got closer to the complainant, he believed that the male matched the description of the armed robbery suspect from the aforementioned bulletin. He was not 100 percent sure of the identity but he believed it was very close to being a match. As such, he decided to place the complainant under an investigative detention.

Constable Corona began to question the complainant and asked that he come over to the cruiser and put his hands on the car so that a pat-down search could be conducted. The complainant initially complied with this request but was verbally objecting that he had done nothing wrong. Constable Corona informed the complainant that he was being searched for officer safety because of an armed robbery investigation. Constable Corona provided the complainant with his rights to counsel during this interaction.

During the course of the pat-down search, the complainant pushed away from the cruiser with his hands causing Constable Corona and Cadet Patel to become concerned. A short, minor struggle ensued. As a result, Constable Corona handcuffed the complainant and searched his pockets removing his car keys, wallet, and cell phone. The items were secured in a plastic Peel Regional Police Service property bag. Constable Corona also accessed the complainant's wallet and searched through his identification and bank cards.

Constable Corona then placed the complainant in the back of the cruiser while he conducted investigative queries using his mobile device unit. This search revealed that the complainant had no criminal history.

Shortly after the complainant was placed in the back of Constable Corona's cruiser, a third officer, Constable Clark Carvalho, arrived on scene. Constable Corona directed Constable Carvalho and Cadet Patel to conduct a search of the complainant's vehicle. The search failed to reveal any illegal items or evidence connecting the complainant to the armed robbery.

Constable Corona produced the photograph from the aforementioned bulletin and asked cadet Patel and Constable Carvalho for their opinions as to whether the identification matched. Cadet Patel indicated that the complainant looked similar to the suspect, but he was unsure if was a match. Constable Carvalho could not definitively say that the complainant matched the description although the complainant did look like the suspect. As a result, the complainant was not ruled out as the suspect at this point.

Constable Corona requested that Acting Sergeant Haramis, #2901 attend the scene to provide a fourth opinion on identification. When Acting Sergeant Haramis assessed the identification, he concluded that the complainant looked similar to the suspect, it was a judgement call situation, but he did not think that there was enough for an arrest. He advised Constable Corona to release the complainant and forward his details to the Criminal Investigation Bureau, if the complainant turned out to be the suspect, he could always be "picked up later."

Constable Corona still believed that the complainant may be the armed robbery suspect. As such, Constable Corona then proceeded to instruct Cadet Patel to photograph the complainant and send the photographs to Detective John Carrabs, #2460 of the Criminal Investigation Bureau. The photographs were taken and sent to detective Carrabs following which Constable Corona called Detective Carrabs and provided him with the complainant's details as a possible suspect.

Due to the nature of the encounter being an investigative detention, Constable Corona had authority to detain the complainant and had limited authority to conduct a search of the complainant but for officer safety purposes only. Constable Corona had no authority to use investigative detention to search for evidence connecting the complainant to the criminal offence. Constable Corona's instructions to search the complainant's vehicle, the removal of the items in the complainant's pockets, the search of his wallet, the taking of his identification and conducting investigative queries based on the seized identification exceeded the legal limits of an investigative detention search for the purpose of officer safety.

The actions of Constable Corona as described above constitute discreditable conduct as prescribed in section 2(1)(a)(xi) of the prescribed Code of Conduct, Ontario Regulation 268/10, as amended.

Finding

Constable Corona entered a plea of guilty to one count of discreditable conduct and acknowledged that the Agreed Statement of Facts was an accurate representation of the circumstances. The evidence is clear and convincing, consequently, I find Constable Corona guilty of discreditable conduct. I could find no judicious reason to deviate from the joint penalty position proposed by counsel in this matter. Therefore, Constable Corona will be required to forfeit 12, eight-hour days, or 96 hours and he will be required to complete an approved training course on the subject of conducting searches.

Reasons

Constable Corona's conduct is no longer in question, what now must be determined is whether the proposed sanction is appropriate; does the joint penalty position strike a balance between community expectations, fairness to Constable Corona and the needs of the organization?

I am not bound by the joint penalty submission, however, to reject it, I would have to find that it is outside the reasonable range of available penalties for similar misconduct and that the penalty conflicts with commonly held proportionality considerations. I will rely on the penalty factors that counsel found relevant to this case; factors which will provide guidance and assist me in determining whether the proposed sanction is fitting.

Public Interest

Exhibit #7 is the prosecution's Brief of Authorities. In the matter of *Montreal (City) v. Quebec (CDPDJ)* 2008, 2 SCR, the Court stated:

In the case of police officers, the hardship is two-fold: the risk of recidivism and the public perception of the integrity of the police force. Because of the need of police officers to exercise their authority with integrity, the risk of recidivism may impose an undue burden on the police force. Even if the person presents a very low risk of re-offending, the fact that they have committed the offence is likely to affect the public's confidence in the integrity of the police force... The nature of the employment requires the highest standard of moral character.

Ms. Wilmot submitted that recent cases are replete with examples of judges criticizing police officers for exceeding their search and seizure, and arrest authorities. Ms. Wilmot noted that Section 8 of the *Charter of Rights and Freedoms* continues to be an area where prosecutions are frequently lost in the criminal courts because police officers are not operating within the legal limits.

The circumstances in this matter illustrate a serious breach of the complainant's rights. It could be argued that the need for public confidence in police services is more important now than ever. The public has an interest in ensuring police officers maintain a remarkably high standard of conduct. That trust is eroded when an officer fails to meet those expectations. The public's trust in their police service is fragile.

There is no evidence that this incident generated media attention, but that could change at any time. To maintain the public's trust, the public must be ensured that misconduct of this nature will attract an appropriate sanction. The public must have confidence that the Peel Regional Police Service will hold members accountable for their actions. Constable Corona is an experienced officer; on this occasion he was working with a cadet. Constable Corona was expected to lead by example; his actions, however, fall well short of the standard that the public has for its police officers' behaviour, and the expectations of the Peel Regional Police Service. A significant sanction will contribute to the process of re-instilling public confidence in the Peel Regional Police Service, knowing that Constable Corona was held accountable for his actions.

Public Interest is an aggravating factor, but I find that the sanction proposed sufficiently and appropriately addresses this penalty factor.

Seriousness of the Misconduct

Misconduct involving the abuse of a police officer's search and/or detention authorities impacting an individual's rights and freedoms ought to be considered serious in nature. Constable Corona had authority to detain the complainant, but his search authority was limited to officer safety purposes only. Constable Corona did not have authority to use investigative detention to search for evidence connecting the complainant to the outstanding robbery incident. Constable Corona was not authorized to search or have the complainant's vehicle searched. The removal of items from the complainant's pockets, the search of his wallet, the taking of his identification and conducting investigative queries based on the seized identification exceeded the legal limits of an investigative detention.

The complainant had no criminal history, and his reasonable expectation of privacy was violated. In the matter of *R. v. Mann* 2004 SCC 52, the Court stated:

...the Court has stated that "good faith cannot be claimed if a *Charter* violation is committed on the basis of a police officer's unreasonable error or ignorance as to the scope of his or her authority"... Good faith is but one factor in the analysis and must be considered alongside other factors which speak to the seriousness of the breach.

I recognize Constable Corona's work ethic and commitment to solving serious and violent crime, but as noted in *Mann*, police officers are expected to be fully informed about their powers of arrest or detention of individuals, and subsequently, the extent of their search and seizure powers and the corresponding limitations. The training component of the proposed sanction with assist Constable Corona in this regard.

The seriousness of Constable Corona's behaviour is an aggravating factor for consideration, but I find the joint penalty position reasonable; it corresponds to the seriousness of the misconduct.

Employment History

I was not provided with specific details concerning Constable Corona's employment history such as previous annual personnel appraisals, but counsel agreed that he has not had previous formal discipline and he has been regarded as a hard worker and good employee. It is not his work ethic or dedication to his profession being called into question, this disciplinary proceeding relates to his poor decision making and lack of understanding of the law.

On a positive note, Ms. Wilmot submitted that since the date of this misconduct, Constable Corona has continued to demonstrate a strong work ethic and was described as a good employee with significant rehabilitation potential. I am always encouraged whenever an officer who find themselves the subject of internal discipline, continues to demonstrate a committed work ethic and integrity; it is illustrative of a strong and positive character.

Employment history is a mitigating factor for consideration.

Recognition of the Seriousness of the Misconduct / Ability to Rehabilitate

As noted, Constable Corona has an excellent employment history, a feature which bodes very well for his ability to rehabilitate. Constable Corona entered a plea of guilty, acknowledged the facts in issue, and agreed to a significant sanction. Taking responsibility for his actions in this manner is an important step in the rehabilitation process. Furthermore, Constable Corona has recognized that he would benefit from additional training in the area of search and seizure, another measure which speaks to his potential for reform and the improbability of recidivism.

I commend Constable Corona for taking responsibility for his behaviour and for taking steps to ensure it will not be repeated. I find recognition of the seriousness of misconduct and Constable Corona's ability to rehabilitate, mitigating factors for consideration.

Specific and General Deterrence

The need for specific deterrence in this instance is minimal based on Constable Corona's admission of guilt, the agreed statement of facts, his commitment to additional training and the overall joint penalty proposed. I am confident that Constable Corona has learned from this experience, and it is unlikely to be repeated. However, it is important that Constable Corona understand that if he were to commit misconduct of a similar nature in the future, the sanction would likely be more consequential.

Similarly, all members of the Peel Regional Police Service must understand allegations of this nature will be taken seriously by their employer and will result in a significant sanction.

The joint penalty proposed, demonstrates the Peel Regional Police Service has taken Constable Corona's misconduct seriously and I am satisfied the sanction ensures other members will be dissuaded from conducting themselves in a similar manner.

I consider this factor to be aggravating in nature, but I am satisfied that the joint penalty position adequately addresses specific and general deterrence.

Damage to the Reputation of the Peel Regional Police

As noted in the penalty factors seriousness of misconduct and public interest, the actions of Constable Corona are significant enough to damage the reputation of the Peel Regional Police Service if it were to become public knowledge. There was no indication that this matter was reported in the media, but it is important to assess the likely damage that the misconduct will cause to the reputation of the police service if his conduct becomes common knowledge within the community. Police services work to develop a positive public image and Constable Corona's conduct in this matter calls into question the integrity of the Peel Regional Police Service. There is no doubt Constable Corona's conduct could lead to negative media attention, damaging his own professional reputation and that of his employer.

A penalty must correspond to the seriousness of the misconduct to help instil confidence in the community, confidence in other members of the police service, and to restore the reputation of the Peel Regional Police Service. In this instance, the proposed sanction adequately addresses the aggravating factor of damage to the reputation of the Peel Regional Police Service.

Consistency of Penalty

The purpose of this penalty factor is to ensure the sanction proposed is within the range of sanctions available.

At tab 5 of Exhibit #7 is the matter of *Peel Regional Police and Devlin*, May 10, 2007, where the officer entered a guilty plea for using excessive force to apprehend a young person while off-duty. The joint penalty of 80 hours was accepted by the hearing officer.

At tab 6 of Exhibit #7 is the matter of *Peel Regional Police and Bertram*, June 12, 2007, where the officer entered a guilty plea for publicly consuming alcohol while off-duty, then unlawfully detaining, and searching an individual. The hearing officer accepted the joint penalty of 48 hours.

At tab 7 of Exhibit #7 is the matter of *Peel Regional Police and Osborne*, September 15, 2009, where the officer entered a guilty plea to two counts of discreditable conduct. One matter was directly related to the *Devlin* matter which resulted in a sanction of 56 hours. The second matter related to the unlawful search and apprehension of an individual while the officer was on-duty. The hearing officer accepted the joint penalty of 40 hours.

Counsel submitted and I agree, these cases illustrate that a sanction consisting of the forfeiture of 96 hours is consistent with other cases involving unlawful detainment and/or search and seizure matters.

Conclusion

Constable Corona entered a guilty plea, agreed to the facts in issue and to a significant penalty. He has a positive employment history and is a strong candidate for rehabilitation. Therefore, I can see no reason to deviate from the sanction proposed and in fact, I find that based upon the proportionality considerations, the penalty is fitting. A forfeiture of 96 hours and the completion of an approved training course is balanced, fair and satisfies the principles governing the appropriate determination of a disposition.

Disposition

Constable Corona pleaded guilty and was found guilty of discreditable conduct based on clear and convincing evidence. After weighing all aggravating and mitigating factors, I find the proposed sanction meets the goals of the discipline process; it strikes a balance between community expectations, fairness to Constable Corona and the needs of the organization.

I order Constable Corona to forfeit 12, eight-hour days, or 96 hours, to be served (worked) at the discretion of the Divisional Commander. Furthermore, Constable Corona is ordered to complete a Peel Regional Police Service approved training course on conducting searches.

This order is made pursuant to section 85(1)(f) and section 85(7)(b) of the *Police Services Act*, R.S.O. 1990 and was given orally on May 10, 2022, with immediate effect.



Greg Walton
Superintendent (Ret.),
Ontario Provincial Police Adjudicator

Date electronically delivered: May 24, 2022