

**POLICE SERVICES ACT DISCIPLINE HEARING – FINAL DISPOSITION**

**IN THE MATTER OF ONTARIO REGULATION 123/98 MADE UNDER THE POLICE SERVICES ACT, R.S.O.  
1990, AND THE AMENDMENTS THERETO;**

**AND IN THE MATTER OF THE LONDON POLICE SERVICE**

**AND**

**CONSTABLE CARL VINK #30342**

**Before: Superintendent William CHANTLER  
London Police Service**

**Counsel for the Prosecution: Mr. Bruce Brown  
Director of Legal Services  
London Police Service**

**Counsel for the Defence: Mr. Glen Donald**

**Date of Hearing: June 4<sup>th</sup>, 2015**

## **HEARING DECISION**

On June 4<sup>th</sup>, 2015 Constable Carl Vink pled guilty and was found guilty of 1 Count of Discreditable Conduct contrary to the Police Services Act, R.S.O. 1990, Section 2(1)(a)(xi) of the Code of Conduct contained in the Schedule to Ontario Regulation 268/10, as amended.

## **AGREED STATEMENT of FACTS – SUBMITTED by MR BROWN**

On October 4, 2014, Constable Carl Vink was on duty as a patrol officer working 8 beat in the north end of the City of London. At 6:56pm he was dispatched to assist car 14, Constable Brandon Lucas, for a chronic trespasser that may be attempting to shoplift from the No Frills at 599 Fanshawe Park Road West in the city.

He arrived at 7:03pm with Constable Lucas and entered the store. At this time they were directed towards the frozen food area where the suspect was believed to be located. As the officers entered the main aisle of the store, by the cash checkout, they observed 2 males coming towards them. One male appeared to be the suspect and the other, they were advised, was the owner of the store. A cart with numerous food items was being pushed by the owner.

The owner advised the officers he had recovered a number of items from the dark duffle bag that was in the possession of the suspect now known as A.S. A.S. was being belligerent and swearing in a very loud voice, causing other patrons in the store to be looking towards their location. A.S. began saying that he “knew the drill” and that they would have to arrest him. A.S. stated he wasn’t going to leave, the officers “were his bitches and his faggots” and needed to take him home.

At 7:05pm A.S. was placed under arrest for trespassing and handcuffed him to the rear. The officers then escorted A.S. from the business and to Constable Lucas’ police cruiser which was parked in front of the store.

The force used during the course of the arrest of A.S. and the escorting of A.S. out of the store was minimal and consistent with Ontario Police College training, use of force standards, as well as the experience of the officers. At no time were A.S.’s arms or wrists twisted unnecessarily. During this time, A.S. continued his verbal barrage of comments towards both Constable Vink and Constable Lucas, calling them “bitches”, “cunts”, “faggots”, and “assholes”.

Constable Vink returned to the store to obtain the store owner’s information and any other relevant facts to the shoplifting and trespass matter. Constable Vink then took the duffle bag belonging to A.S. and returned to Constable Lucas’ cruiser. Based on the fact that A.S. did not leave the store with the items, it was determined that he would be trespassed instead of charged with theft.

Constable Vink opened up the rear cruiser door and had the following conversation with the accused:

Q A.S., where are you living now?

A You know where I live bitch.

Q Where? Ballymote?

A You're right bitch, suck my cock, you fuckin bitch.

Due to the fact that A.S. had been involved in chronic trespassing occurrences at businesses in the immediate area and several other areas of the City of London, Constable Vinck advised Constable Lucas that they would escort A.S. away from this area to prevent any further continuation of the offences. Constable Vink advised Constable Lucas to follow him in his police cruiser. Constable Vink decided lead Constable Lucas, with A.S. in his custody, out to Ballymote which is located at Medway Road and Highbury Avenue, outside the city limits.

They arrived at the Petro Canada gas station in Ballymote which is well lit and there is a pay phone if required. At this point A.S. was asked to step out of Constable Lucas' cruiser. A.S. stepped out of the cruiser on his own, once told that this was the location he was being dropped off. He stood at the back of the cruiser and was advised the handcuffs were being removed. Constable Vink removed the handcuffs. As Constable Vink was doing this, A.S. continued his barrage of sexual comments and swearing. A.S. was advised that he would be released with a summons to show up for court for trespassing. Constable Lucas completed the Part III Summons and issued that to A.S. Constable Vink retrieved the duffle bag belonging to A.S. from the front seat of Constable Lucas' cruiser and placed it on the ground where A.S. was standing.

Constable Vink and Constable Lucas then left the area, leaving A.S. behind, and returned to Masonville shopping area, in the City of London, to complete their notes for the call.

Constable Vink was the senior officer on this call. His intention in removing A.S. from the scene was to prevent the repetition of the offence of trespass at Mark's No Frills. A.S. was of no fixed address and was uncooperative with Constable Vink and Constable Lucas. In this case, Constable Vink made the short sighted decision to drive A.S. to Ballymote. Constable Vink takes responsibility for the decision to drive A.S. to that location and he believes Constable Lucas was following his lead due to his seniority.

### **PROSECUTION SUBMISSIONS**

Mr Brown had no further submissions or case law submissions to be considered in these proceedings.

### **DEFENCE SUBMISSIONS**

Mr Donald submits that A.S. poses a challenging problem for the citizens of London. Neither Community Support Services nor the justice system has been able to assist A.S. or effectively address the problems that he creates in the community. Constable Vink recognized this situation and took action to solve it

for the community members, particularly the business owners, who must continually deal with A.S. and are very frustrated with the problem. If A.S. had been left in the area, he would have returned directly to the Mark's No Frills store, or to another store, and the problem would have continued. Members of the public expect the police to solve these difficult problems. Constable Vink's actions solved the problem in the immediate but this was clearly not an appropriate solution. In years past this type of police response to this type of problem was accepted as an effective solution. However Constable Vink realizes that this is not an appropriate response to persons with issues such as A.S. and this type of police conduct is no longer tolerated in today's society. Constable Vink has taken responsibility for this incident and has been prepared to deal with this matter from the outset as Constable Lucas is junior to him and was following his lead. Constable Vink has learned from this incident and this situation will not repeat itself.

### **JOINT SUBMISSION on PENALTY**

Mr Brown and Mr Donald provided a joint submission of forfeiture of eight (8) hours pay as an appropriate disposition of this matter.

### **HEARING OFFICER'S FINDINGS**

The Prosecution and the Defense agree on the facts of this matter on which Constable Vink has been found guilty of 1 count of Discreditable Conduct contrary to the Police Services Act, R.S.O. 1990, Section 2(1)(a)(xi) of the Code of Conduct contained in the Schedule to Ontario Regulation 268/10, as amended.

The Prosecution and the Defense provided verbal submissions in this matter which have assisted me in reaching the decision in this matter.

The Prosecution and the Defense have jointly submitted that the appropriate penalty in this matter is the forfeiture of 8 hours pay by Constable Vink.

The goals of the discipline process are to correct inappropriate behaviour or misconduct, deter future similar inappropriate behaviour or misconduct, and, to reassure and maintain the trust and confidence of the community. Penalty as a result of the discipline process must achieve these goals, balancing the expectations of the community, the needs of the organization, and fairness to the subject officer. As such in determining the suitable penalty in this matter I have carefully considered all of the following factors.

#### ***1. Public Interest***

At the heart of all disciplinary matters is the consideration for public interest. I find that Constable Vink's misconduct invokes several public interest implications.

Constable Vink's misconduct was within the public domain in response to a trouble with a person call for service. Although there is no indication that his conduct was anything less than professional in the presence of the call for service complainant the actions that he chose to take to resolve the matter were not appropriate or professional. Transporting a prisoner out of the City of London and releasing him in a public location, outside of the London Police Service jurisdiction, where he could have continued to cause a nuisance in that area or found himself in harm's way attempting to return to London is unacceptable. Incidents such as these have occurred in other jurisdictions and ended tragically resulting in the public condemnation of this practice by police. The actions of Constable Vink have a negative impact on the trust and confidence of the community has in the London Police Service.

## ***2. Damage to the Reputation of the Police Service***

In reviewing this incident in totality I find that Constable Vink's actions have damaged the reputation of the London Police Service in particular the reputation of the Service regarding the response to persons with mental illness or in mental health crisis.

A.S. clearly suffers from mental health issues and is in fact a vulnerable member of our community. As a result A.S. causes significant problems throughout the community which may be classified, at worst, as minor criminal offences and, realistically, as a nuisance. Clearly neither criminal charges nor provincial offence charges laid against A.S. previously have worked to address the issue. I understand the frustration of both the community and the police officers who must continually deal with the problems caused by A.S. However the expectation of police officers is that they will address these issues professionally, appropriately, and with some degree of compassion for persons with mental illness. In my view Constable Vink did not meet these expectations in this matter. Several options, resources, and tools including Mission Services, the Salvation Army, and the Mental Health Crisis Mobile Response Team were available to Constable Vink to resolve this matter in an appropriate, professional, and compassionate manner. Constable Vink chose to resolve this matter otherwise thereby damaging the reputation of the London Police Service.

## ***3. Need for Deterrence***

I find that there is a need for both specific and general deterrence in this case. In my view a penalty of some significance is required for Constable Vink as a consequence of his misconduct and as a general deterrence to similar misconduct by other members of the London Police Service. It is noted that Constable Vink was accompanied and assisted on this call for service by another London Police Service Constable who was significantly junior to Constable Vink. Constable Vink has accepted responsibility for this matter as the leader of the two officers on this call for service. However it must be made clear to the second officer involved in this matter, as well as all members of the London Police Service, that the actions taken by these officers in this case were inappropriate and unacceptable.

#### ***4. Consistency of Disposition***

Consistency of penalty is a primary principle of the police discipline process. In this case both the Prosecution and the Defense have made a joint submission on penalty. No case law was provided to support the purposed penalty. Both the Prosecution and the Defense verbally submitted that they were unaware of any case law that was identical in fact to this matter. Both the Prosecution and the Defense submitted their joint submission on penalty fits within a range of penalty from cases which were similar but not identical to this matter.

#### **FINAL DISPOSITION**

**I have carefully considered the facts presented in this case as well as the submissions of the Prosecution and Defense. In light of the seriousness of this matter, bearing in mind all the evidence placed before me, and given the joint submission on penalty, Constable Vink is ordered to forfeit eight (8) hours pay as the final disposition of this matter.**

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William F. Chantler  
Superintendent,  
London Police Service