



**HEARING DECISION
SENTENCE**

Name: Vincent WONG

Rank: Police Constable

Badge Number: 8456

Case Number: 2012.09

Hearing Date: 2014.03.25

Hearing Officer: The Hon. Judge W. GONET

Prosecutor: Mr. B. VAN NIEJENHUIS

**Defence Counsel:
Or Representative** Ms. M. WEBB

**In the matter of the *Police Services Act*
R.S.O. 1990, c.p. 15 (as amended)**

**And in the matter of
Police Constable Vincent Wong (8456)**

Disposition and Sanction

The basic principles that are to be considered in any disposition or sentencing are the principles of specific and general deterrence and the factors that aggravate and mitigate the offence. The application of these principles cannot be made in a vacuum but consideration must be given to the surrounding circumstances, not only of the offence, but also of the defendant.

In regards to general deterrence, the public has been advised by local media of the name of the defendant, the complained of offence and the happening of this hearing. This disposition will also be of record and available to the general public and other officers.

The offence of unlawful arrest caused Mr. Wall, the complainant, the loss of his personal liberty for a period of 26 hours. Upon his release, no charges were laid. As given in evidence, this egregious conduct has had a continuing effect on Mr. Wall.

As for the principle of specific deterrence, it is noted that on the day previous to the unlawful arrest of Mr. Wall, the defendant was involved in the riotous behaviour of a number of agitators at the G20 conference. The activity of these criminal protestors caused carnage in the city and innocent business establishments, police and equipment was burned and police officers were attacked and forced to protect themselves and public and private property. The officers worked double shifts and had to be billeted in hotels in the downtown area.

On the Sunday morning after the aforesaid events, Sgt. Gibb arrived for the morning parade and advised that he had just come from a meeting with "upper command" with orders that

anyone wearing a bandana, gas mask, or goggles and had a back pack was “arrestable” as the riots were expected to be ongoing. It is with this information that Police Constable Wong left the parade meeting and went on duty. It is after this meeting that Mr. Wall, wearing a bandana, carrying a backpack, and wearing sunglasses arrived at the place of arrest.

This hearing found that Police Constable Wong did not have reasonable and probable grounds for such arrest and should have known what properly constitutes reasonable and probable grounds after being a member of the Toronto Police Service for approximately 8 years.

There remains the matter of the antecedents of Police Constable Wong’s employment with the Toronto Police Service. Police Constable Wong was hired on April 16, 2002. Since that date to the present day, Police Constable Wong has had no complaints on his record save this subject matter. He is highly thought of by his superior and supervisory officers and has been recommended for promotion. As a result of this hearing and the extraordinary time it has taken for this hearing, approximately 3 ½ years, he has lost his opportunities to act on such promotion possibilities. He has received internal and public commendations before and since June 27, 2010 (*reference – Exhibit 19 – Book of Materials*).

Penalty and Sanction

The prosecution has submitted that a proper sentence would be:

- An order that the subject officer be suspended without pay for not less than one day pursuant to section 85(1)(d) of the *Police Services Act* R.S.O. 1990 c.p. 15 (as amended); and,
- An order that the subject officer be directed to forfeit not less than six (6) days off pursuant to section 85(1)(f) of the said Act.

This above position was joined by counsel for the complainant.

Propriety of Hybrid Penalty

1. The *Police Services Act*, R.S.O. 1990, Chapter 15, as it currently reads, provides for a combination of penalties to be imposed upon the subject officer upon a finding of misconduct, pursuant to s.85(1)(g) of that statute:

- 85. (1)** Subject to subsection (4), the chief of police may, under subsection 84(1),
- (a) dismiss the police officer from the police force;
 - (b) direct that the police officer be dismissed in seven days unless he or she resigns before that time;
 - (c) demote the police officer, specifying the manner and period of demotion;
 - (d) suspend the police officer without pay for a period not exceeding 30 days or 240 hours, as the case may be;
 - (e) direct that the police officer forfeit not more than three days or 24 hours pay, as the case may be;
 - (f) direct that the police officer forfeit not more than 20 days or 160 hours off, as the case may be; or
 - (g) impose on the police officer any combination of penalties described in clauses (c), (d), (e), and (f), *2007, c.5, s.10*.

At the sentencing hearing, counsel for the defendant submitted that the combination as suggested was unavailable in the circumstances of this matter for its duplicity on a single complaint or charge. I agree with the prosecutor's submission that the ordinary and grammatical meaning of s.85(1)(g) allows the Hearing Officer to impose "any combination of penalties" among those provided in subsections (c) through (f) and I will be proceeding on that basis.

Sanction

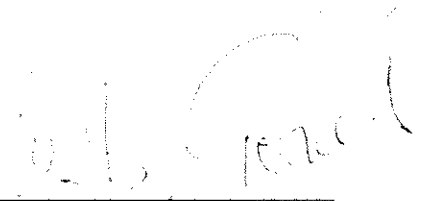
I have reviewed the judgment in this matter and the facts therein contained. I appreciate the aggravating factor in these circumstances being the loss of Mr. Wall's personal liberty for the approximate 26 hours and the treatment he received while in custody.

On the mitigating side, I am aware of the experience that the defendant had on June 26, 2010, trying to control a riot; getting instructions from Sgt. Gibb as to the mere possession of back

packs, bandanas, or goggles to be "arrestable" offences; and the exemplary record of the defendant for the past 10-11 years with no like offences or any other complaints. This makes me think that the defendant's conduct in this circumstance was an aberration and will not be repeated.

Due to the severity of the complaint and the length of the custody, a reprimand as the penalty will not be available to the defendant. For the reasons set out above, I order that the defendant, Police Constable Vincent Wong (8456), be suspended without pay for not less than one day pursuant to s.85(1)(d) of the *Police Services Act*.

DATED at Toronto this 25th day of March, 2014.



Walter S. Gonet
Hearing Officer

AND TO:

Prosecution: B.J. Van Niejenhuis
 E. Marrocco

P.C. Vincent Wong A.D. Gold

P.C. Blair Begbie M. Webb

Jason Wall K. Burke