OPAAC ADJ #25-003

SERGEANT MICK SACHDEVA
Appellant

And

PEEL REGIONAL POLICE
Respondent

Adjudicators:
Ian Anderson, Laura Hodgson, Peter Lennox

Appearances:
H. Black, for the appellant
S. Wilmot, for the respondent

Heard:
December 11, 2024

Date of decision:
February 18, 2025

Length of decision:
16 pp.

Statutory citations:
Police Services Act, R.S.O. 1990, c.P.15 (repealed), ss. 82(1)(a) and 87;
O. Reg. 268/10 (repealed), s. 2(1)(a)(xi)
Community Safety and Policing Act, 2019, S.O. 2019, c., Sched. 1, s. 216(4)

DISCREDITABLE CONDUCT - Disorderly or prejudicial conduct - Appeal from penalty of reduction in rank following guilty plea on charge of discreditable conduct - Appellant previously disciplined for having inappropriate social and business relationship with person who had known criminal history - Appellant failed to cease relationship, in contravention of undertaking - No errors in principle in hearing officer's decision - Decision reasonable - Appeal dismissed.

DISCIPLINARY PENALTIES - Grounds for intervention - Appeal from penalty of reduction in rank following guilty plea on charge of discreditable conduct - Standard of reasonableness applied to decision of hearing officer - Deference owed to hearing officer's findings of fact and weighing of dispositional factors - No manifest errors in principle - Hearing officer did not ignore relevant factors - Decision reasonable - Appeal dismissed.

DISCIPLINARY PENALTIES - Demotion - Appeal from penalty of reduction in rank following guilty plea on charge of discreditable conduct - Hearing officer considered all relevant factors, including repetitive nature of misconduct and specific deterrence - No error in principle in hearing officer's decision - Penalty not manifestly excessive - No grounds for interfering with hearing officer's decision - Appeal dismissed.

Summary of Reasons for Decision

On March 21, 2024 Sergeant Sachdeva pled guilty to one count of discreditable conduct, contrary to s. 2(1)(a)(xi) of the code of conduct, O. Reg. 268/10 (now repealed). On July 5, 2024 the hearing officer imposed a penalty of reduction in rank to First Class Constable for a period of 12 months. This appeal from the penalty decision was commenced pursuant to s. 87 of the *Police Services Act* (now repealed). The appeal continued pursuant to s. 216(4) of the *Community Safety and Policing Act, 2019.* In accordance with this transitional provision of the *CSPA,* the panel exercised the powers and performed the duties of the Ontario Civilian Police Commission.

At the disciplinary hearing on March 21, 2024 the parties submitted an agreed statement of fact (ASF). The ASF indicated that Sgt. Sachdeva was hired by the Peel Regional Police in June 1997. In September 2017 he pled guilty to charges of discreditable conduct concerning his inappropriate social and business relationship with AA., a person with a history of criminal activities. Sergeant Sachdeva completed securities transactions on behalf of AA; and both he and AA were associated with a property investment management company. At the 2017 disciplinary hearing, the hearing officer imposed a penalty of five days forfeiture, and she noted Sgt. Sachdeva's undertaking to cease any relationship with AA.

In April 2021, during the course of an arson investigation, the Hamilton Police Service discovered a large volume of telephone calls and text messages between Sgt. Sachdeva and AA, the majority of which were initiated by Sgt. Sachdeva. AA was one of three suspects in the arson. In light of AA's criminal history, the Hamilton Police notified the Peel Police about the frequent contact between AA and Sgt. Sachdeva. Later, investigators discovered that both AA and Sgt. Sachdeva continued to be listed as associated with Deva Property Management Inc. and that a rental property in Cambridge was still registered in that company's name.

Sergeant Sachdeva acknowledged that during the time period of the Hamilton Police Service investigation he rented a vehicle from AA's shop, gave AA the code for his home garage, and that AA attended at his home garage to pick up the key for the rental. Sergeant Sachdeva further acknowledged that his actions constituted discreditable conduct, contrary to s. 2(1)(a)(xi) of the Code of Conduct.

During the penalty hearing for the current misconduct, the appellant submitted that a forfeiture of three days was an appropriate penalty. The hearing officer, however, agreed with the respondent's submission and ordered a reduction in rank from Sergeant to First Class Constable for a period of 12 months. Sergeant Sachdeva appealed the penalty decision on a number of grounds, asserting that the hearing officer: erred in his characterization of the 2017 misconduct decision; erred in not addressing the appellant's explanation for having contact with AA;

dismissed the appellant's use of a family lawyer; erred in finding the appellant had resumed a personal relationship with AA; and imposed an excessive penalty.

Held, appeal dismissed.

The case law confirmed that the role of the Commission on a penalty appeal was to assess whether the hearing officer's decision was reasonable in the circumstances. As emphasized by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov,* 2019 SCC 65, an administrative tribunal's reasons should not be assessed against a standard of perfection. The hallmarks of a reasonable decision were justification, transparency, and intelligibility. In the present context, it was not the Commission's role to second guess the hearing officer or substitute their opinion. Deference was owed to the hearing officer's findings of fact and weighing of dispositional factors. Thus, absent an error in principle or a failure to consider relevant factors, the Commission would not interfere with the penalty imposed.

Regarding the first ground, the appellant submitted that the hearing officer's decision was fatally flawed because in his reasons, he twice used the word "order" to describe the appellant's agreement in 2017 to cease his relationship with AA. However, the 2017 undertaking was relied on by the 2017 hearing officer in formulating that penalty. In addition, at some point all parties referred to this undertaking as part of the 2017 order. Reading the decision as a whole, it was clear that the hearing officer in the current matter did not misunderstand the nature of the 2017 disposition. Any misstep in referring to the 2017 disposition as an "order" did not constitute an error in principle and did not affect the reasonableness of the decision.

As to the second ground, before the hearing officer the appellant argued that his personal communication with AA was necessary to deal with the Cambridge property. It was clear that the hearing officer did consider the appellant's explanation that he had no option but to contact AA directly about the Cambridge property; it was also clear that the hearing officer did not accept this explanation as justification for on-going contact. In the 2017 resolution, the appellant undertook to cease communication with AA and retain counsel to deal with property issues. The hearing officer reasonably concluded that in failing to cease communication, the appellant demonstrated poor judgment.

As to the third ground, the suggestion was that by noting his use of a family law lawyer, the hearing officer diminished the appellant's good faith efforts to divest himself of the Cambridge property. However, based on the evidentiary record, it was open to the hearing officer to note that although there was some effort to divest, the steps taken by the appellant provided little in the way of mitigation, because those efforts were made in the context of his divorce proceedings rather than any compulsion to comply with the 2017 resolution. The hearing officer did not err in considering this when determining the seriousness of the misconduct.

With respect to the fourth ground, the hearing officer did not err in finding that the appellant either continued or resumed a personal relationship with AA, through multiple electronic messages and personal visits. This conclusion was supported on the record and the ASF. The hearing officer's factual conclusions were entitled to deference.

As to the fifth ground, in comprehensive reasons the hearing officer considered the relevant dispositional factors. Specifically, he considered: damage to the public interest, seriousness of the misconduct, employment and discipline history, recognition of wrongdoing, deterrence, and consistency of disposition. He also considered the appellant's knowledge of AA's criminal history, his "willful blindness" to the continued, problematic association with AA, his inconsistent statements to Internal Affairs, his guilty plea, apology, and considerable service with the Peel Regional Police. The hearing officer did not fail to assess consistency of disposition or consider whether a lesser penalty might be appropriate. Concerning the factor of specific deterrence, the hearing officer found the misconduct serious because it was repetitive and showed a sustained course of poor judgment, as opposed to a momentary or isolated lapse. He noted the appellant's guilty plea and apology; but at the same time, he also noted that the conduct might have continued had it not been uncovered during an investigation by another police service. Although he surveyed the range of penalties in prior cases involving similar misconduct, the hearing officer found the 2017 disposition particularly relevant.

Considering the various factors, including the fact that the 2017 disposition failed to deter the appellant, it was reasonable for the hearing officer to impose a demotion. Given the circumstances of this case, the penalty was not manifestly excessive. There was no error in principle in the hearing officer's decision, no failure to consider material facts or relevant factors. Accordingly, there was no basis to interfere with the hearing officer's decision.

Authorities cited

Karklins v. Toronto (City) Police Service, 2010 ONSC 747 (Ont. Div. Ct.)
Kobayashi and Waterloo Regional Police Service, 2015 ONCPC 12 (CanLII)
Gould v. Toronto Police, 2018 ONSC 4074 (CanLII) (Ont. Div. Ct.)
Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65
Krug v. Ottawa Police Service, 2003 CanLII 85816 (ONCPC)
Runge v. York Regional Police, 2024 ONCPC 26 (CanLII)