

Justices of the Peace Review Council

IN THE MATTER OF A HEARING UNDER SECTION 11.1 OF THE *JUSTICES OF THE PEACE ACT*, R.S.O. 1990, c. J.4, AS AMENDED

Concerning a Complaint about the Conduct of Justice of the Peace Anna Gibbon

Before: The Honourable Justice Timothy Lipson
Justice of the Peace Holly Charyna
Mr. John Tzanis

Hearing Panel of the Justices of the Peace Review Council

DECISION ON MOTION TO WITHDRAW CERTAIN ALLEGATIONS IN THE NOTICE OF HEARING

Ms. Linda Rothstein
Ms. Alysha Shore
Presenting Counsel

Mr. Eugene Bhattacharya
Ms. Mary C. Waters Rodriguez
Counsel for Her Worship Gibbon

BACKGROUND

1. The Justices of the Peace Review Council (the “JPRC”) received a complaint from the City of Thunder Bay City Solicitor on March 17, 2020 (the “Complaint”).
2. The Complaint relates to Justice of the Peace Anna Gibbon and her alleged involvement in the prosecution of her son, Jordan Gibbon (“Jordan”), for an offence under the *Highway Traffic Act*.
3. An initial “set-date” appearance took place on January 27, 2021, during which Presenting Counsel filed a Notice of Hearing dated December 21, 2020.
4. The Notice of Hearing sets out the allegations that were ordered to a hearing by a complaints committee of the JPRC. The Notice of Hearing was marked as ‘Exhibit 1’ in this hearing.

PRESENT MOTION

5. Presenting Counsel filed a Notice of Motion returnable April 28, 2021 for an order that allegations 3(b)(iii) and 3(b)(iv) in the Notice of Hearing be withdrawn. Presenting Counsel relies on Rules 16.19(c) and (d) of the JPRC Procedures Document, which provides:

16.19 Given the important role of the Review Council in preserving public confidence in the judiciary, and recognizing that a three-person complaints committee that orders a hearing has concluded that the evidence could support a finding of judicial misconduct, a Hearing Panel has a responsibility to make its own determinations on the matters before it.

...

- c) The Hearing Panel may ask questions and/or request evidence from Presenting Counsel in order that the Panel will have sufficient information to determine whether withdrawal of the allegation(s) from the Notice of Hearing will achieve a just result and preserve confidence in the judiciary.
 - d) The Hearing Panel shall order the withdrawal of any allegation(s) of judicial misconduct in the Notice of Hearing if the Hearing Panel finds that there is no 46 reasonable prospect of a finding of judicial misconduct based on the evidence at the time of the hearing.
6. The allegations in the Notice of Hearing that Presenting Counsel seeks to withdraw are that Justice of the Peace Gibbon “failed to uphold judicial independence, impartiality and integrity and engaged in inappropriate interactions with...Her Worship

Aleong, when [Justice of the Peace Gibbon]:

- iii. tried to influence the outcome of her son's matter by having Her Worship Aleong to her home for dinner prior to his September 19, 2019 appearance before Her Worship Aleong; and/or
 - iv. invited Her Worship Aleong to her house for dinner in order to influence the outcome of her son's legal matter. In the alternative, the invitation could give rise to such a perception.”
7. In submissions, Presenting Counsel refers to information provided by Nicole Klein, the paralegal retained by the City of Thunder Bay to prosecute the charge against Jordan, in the course of the complaints committee's investigation. Presenting Counsel submits that Ms. Klein told investigating counsel that Justice of the Peace Aleong recused herself from hearing Jordan's matter, “based on the fact that she had just had dinner at [Jordan's] home the night before the proceedings.”
 8. Presenting Counsel also refers to the information provided by Justice of the Peace Aleong during her interview with investigating counsel. Presenting Counsel submits that Her Worship Aleong told investigating counsel that she did not have dinner with Her Worship Gibbon or Jordan in September 2019. Her Worship Aleong advised that she previously met Jordan in late 2016 or early 2017 when she was sitting in Thunder Bay and had dinner with Her Worship Gibbon's family at that time.
 9. Presenting Counsel advises that she conducted an interview with Ms. Klein following the issuance of the Notice of Hearing to obtain clarification from Ms. Klein regarding her statement to investigating counsel that Justice of the Peace Aleong had dinner with Jordan the night before the September 2019 appearance.
 10. Presenting Counsel advises that Ms. Klein clarified that she did not know when specifically the dinner between Her Worship Aleong and Jordan took place, nor was she certain that it was the night before the September 2019 proceedings; she did not have any further recollection with respect to the timing of the dinner.
 11. Presenting Counsel submits that in light of Justice of the Peace Aleong's statement to investigating counsel and Ms. Klein's subsequent clarification, there is no reasonable prospect of a finding of judicial misconduct with respect to the allegations contained at paragraphs 3(b)(iii) and 3(b)(iv) of the Notice of Hearing.
 12. Counsel for Her Worship concurs with Presenting Counsel's position and consents to the relief sought on this motion.
 13. Upon review of the Notice of Motion and on hearing the submissions of both Presenting Counsel and counsel for Her Worship, this Panel finds that there is no reasonable prospect of a finding of judicial misconduct with respect to the allegations set out in paragraphs 3(b)(iii) and 3(b)(vi) of the Notice of Hearing. A withdrawal of these allegations will achieve a just result and preserve confidence in the judiciary.

14. Accordingly, allegations 3(b)(iii) and 3(b)(iv) are struck from the Notice of Hearing.

15. Presenting Counsel shall serve and file an Amended Notice of Hearing, which will be marked as 'Exhibit 1(a)' in this proceeding.

Dated at Toronto this 28th day of April, 2021

HEARING PANEL:

Justice Timothy Lipson (Chair)

Her Worship Holly Charyna (Justice of the Peace Member)

Mr. John Tzanis (Community Member)