

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 Two Complaints about the Conduct of Justice of the Peace Margot McLeod

Before: The Honourable Justice Lisa Cameron, Chair
Justice of the Peace Christine Smythe
Dr. Michael Phillips, Community Member

Hearing Panel of the Justices of the Peace Review Council

DECISION ON THE AGREED STATEMENT OF FACTS FILED ON NOVEMBER 3, 2020

Mr. Matthew Gourlay
Presenting Counsel

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

DECISION ON THE AGREED STATEMENT OF FACTS SUBMITTED ON NOVEMBER 3, 2020

1. The hearing in this matter is scheduled to commence on November 17, 2020.
2. On November 3, 2020, Presenting Counsel, Mr. Gourlay, filed an Agreed Statement of Facts, signed by Her Worship and her counsel on November 2, 2020 and by Mr. Gourlay on November 3, 2020.
3. The Hearing Panel has reviewed the Agreed Statement of Facts and has considered the Procedures of the Justices of the Peace Review Council which include the following:
 - 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.
4. The Hearing Panel notes that paragraphs 25, 26, 29 and 30 of the Agreed Statement of Facts contain the views of counsel regarding the evidence, namely that counsel are of the view that the evidence in relation to some of the allegations in the Notice of Hearing do not support findings of judicial misconduct.
5. The objective of the hearing process is to preserve and, if necessary, restore public confidence in the judiciary. If the Hearing Panel were to accept the Agreed Statement of Facts as filed, including those four paragraphs, the Panel may be perceived by members of the public as having accepted the views of counsel prior to the hearing taking place, prior to the conclusion of evidence at the hearing, and prior to counsel making submissions on the evidence in the course of the hearing.
6. The Hearing Panel must ensure that it makes its determination on the evidence presented in the course of the hearing and that it is perceived to do so.
7. Paragraphs 25, 26, 29 and 30 do not set out the agreed facts, but rather, are more appropriately part of submissions.
8. The Hearing Panel would be prepared to accept the Agreed Statement of Facts if those paragraphs are removed. Counsel may make their submissions on the evidence at the appropriate stage in the hearing.
9. The Procedures of the Review Council provide as follows:

16.19(i) If the Hearing Panel is considering not accepting an Agreed Statement of Facts, the Hearing Panel shall provide the parties with notice and an opportunity to make submissions.

10. Accordingly, counsel may make submissions on the Panel's decision to reject the current version of the Agreed Statement of Facts, subject to the removal of paragraphs 25, 26, 29, and 30.

11. Should counsel choose to refile the Agreed Statement of Facts without paragraphs 25, 26, 29 and 30, they may do so prior to or at the start of the hearing on November 17, 2020.

12. Should counsel wish to make submissions on the Panel's decision to not accept the current version of the Agreed Statement of Facts for the reasons set out above, they may do so at the commencement of the hearing on November 17, 2020.

Dated at Toronto this 15th day of November, 2020

HEARING PANEL:

The Honourable Justice Lisa Cameron, Chair

Justice of the Peace Christine Smythe

Dr. Michael Phillips, Community Member