

IN THE MATTER OF a complaint respecting the Honourable Justice Marvin G. Morten

BEFORE

The Honourable Justice Eileen E. Gillese
Court of Appeal for Ontario

The Honourable Annemarie E. Bonkalo
Associate Chief Justice of the Ontario Court of Justice

Mr. J. Bruce Carr-Harris

Ms. Madeleine Aldridge

COUNSEL

Mr. Douglas Hunt and Mr. Michael Meredith, Presenting Counsel

Mr. Robert G. Schipper, counsel to Justice Marvin G. Morten

REASONS FOR DECISION

[1] The panel accepts the joint submission of counsel that pursuant to section 51.6(11) of the *Courts of Justice Act*, the complaints against Justice Morten are dismissed without a finding that these complaints were unfounded.

[2] While it is, of course, of supreme importance that the parties have resolved the matters as among themselves, our obligation is to ensure that disposing of the complaints in this fashion is in the public interest in the proper administration of justice, and promotes the proper functioning of the Ontario Justice Council. We are so satisfied.

[3] In this case, all those affected by the complaints have been canvassed. All are content with the resolution. The procedure has been fully explained to this panel to its satisfaction and is set out in Exhibits four and five to these proceedings.

[4] We are satisfied also that the Minutes of Settlement, Exhibit three to these proceedings, address any concerns raised by the complaints in respect of the proper functioning of the courts. This is underscored by paragraph one of the Minutes of Settlement, under the terms of which Justice Morten remains a judge of the Ontario Court of Justice, while performing duties assigned to him by the Chief Justice of the Ontario Court of Justice in a manner that best utilizes Justice Morten's special experience and skills.

[5] We are satisfied also that whatever the issues were in relation to the operation of the Brampton courthouse, the Minutes of Settlement provide a harmonious resolution for all who work in the courthouse. But, most importantly, from the perspective of the public interest, which is the perspective from which we review the Minutes of Settlement, the resolution fully addresses the need for the proper functioning of the administration of justice in those courts.

[6] Accordingly, we are of the view that it is appropriate that presenting counsel lead no evidence in this matter. The complaints against Justice Morten are dismissed without a finding that the complaints are unfounded.

[7] In accordance with section 51.7(5) of the *Courts of Justice Act*, the complaints having been dismissed, we recommend to the Attorney General that Justice Morten be compensated for his costs of legal services. Our understanding of our obligation under that section is that we must indicate the amount. In order to decide that matter, we would ask that counsel for Justice Morten provide us with his bill of cost within two weeks of today's date. We would ask that he provide presenting counsel with copies of the bill and invite presenting counsel's submissions on the same.

[8] Before concluding the proceedings on behalf of the panel, we would like to commend counsel and all those involved for a resolution that serves the public interest so well and for a resolution that serves the interests of those most directly involved in the proceedings as well. Thank you very much.

DATED at the City of Toronto, in the Province of Ontario, May 3, 2006

The Honourable Justice Eileen E. Gillese
Court of Appeal for Ontario

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Associate Chief Justice of the Ontario Court of Justice

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