

IN THE MATTER OF
ONTARIO REGULATION 123/89
MADE UNDER THE *POLICE SERVICES ACT* R.S.O. 1990 C.P. 15
AND AMENDMENTS THERETO;
AND IN THE MATTER OF
POLICE CONSTABLE DARCY LUNN #5385
AND THE
CHATHAM-KENT POLICE SERVICE

SENTENCE

APPEARANCES:

Ms. Allison Johnstone for the Chatham-Kent Police Service.

Mr. Ian Johnstone

Mr. Lucas O'Hara for Police Constable Darcy Lunn

BEFORE:

Terence Kelly, Deputy Chief (Ret.)

York Regional Police

Hearing Officer

SENTENCE DATE:

December 15th, 2020

SENTENCE

Police Constable Darcy Lunn Badge Number #5385

December 15th, 2020

Deputy Chief Terence Kelly (Ret.) before commencing with sentence in this matter, I wish to thank Ms. Allison Johnstone and Mr. Ian Johnstone, the Service Prosecutors, and Mr. Lucas O'Hara, Counsel for Police Constable Darcy Lunn, for their comments and exhibits entered, all of which assisted me.

Police Constable Darcy Lunn, #5385 has pleaded guilty and been found guilty of three counts of discreditable conduct, one count of neglect of duty laid under the *Police Services Act*.

The guilty pleas were advanced with and Agreed Statement of Facts **(Exhibit #4)**.

Count One-Discreditable Conduct, contrary to section 2(1)(a)(xi) of the *Police Services Act*

Between the dates of 2009 – 2010, Police Constable Darcy Lunn transported his issue firearm home to 29947 St. Clair Parkway, Wallaceburg, Ontario. Constable Lunn transported his police issued firearm home without proper paperwork to do so. While transportation of the firearm did not amount to a breach of the *Criminal Code*, the unauthorized transportation of a firearm is likely to bring discredit upon the reputation of the Chatham-Kent Police Service.

Count two Neglect of Duty, contrary to section 2(1)(c)(iii) of the *Police Services Act*.

Between the dates 2009-2010, Police Constable Darcy Lunn brought his issued firearm home to 29947 St. Clair Parkway, Wallaceburg, Ontario. He was off- duty at the time. Janine Bechard-Lunn asked him not to bring his firearm home as she was fearful of guns. She asked him to store it in his locker at the police station.

Constable Lunn did not have permission from the Chief of Police or designate to bring his service issued firearm to his residence while off duty.

Count three Discreditable Conduct, contrary to section 2(1)(a)(xi) of the *Police Services Act*.

In February/March 2015, in St. Clair Township, Constable Lunn threatened to strike Janine Bechard-Lunn while presenting a balled fist. Their son, Cody, stood between Darcy and Janine Bechard-Lunn. Darcy pushed him against the wall.

Police Constable Lunn was found guilty of the criminal offence of assault.

Count four Discreditable Conduct, contrary to Section 2(1)(a)(xi) Of the *Police Services Act*.

In the summer of 2015, Janine Bechard-Lunn was working at the Canada Post Office located at 105 Christina Street South, Sarnia, Ontario. Constable Lunn called her, yelling, stating that he was going to harm her. Melanie Smith, another Canada Post employee was a witness to these threats. A tearful Melanie Smith advised her supervisor, Mark Henry about the threat. This incident scared and embarrassed Janine Bechard-Lunn.

Police Constable Darcy Lunn was found guilty of a criminal offence of uttering threats to cause bodily harm.

I accept the guilty pleas on the facts in this case. The facts stated and agreed to provide clear and convincing evidence of the alleged misconduct strongly supporting Police Constable Lunn's pleas of guilty. If not for the guilty pleas, which I take into account as mitigating factors and recognition of his conduct, I would consider a greater penalty.

Due to the circumstances surrounding his misconduct, notwithstanding the guilty pleas and the Agreed Statement of Facts, I believe the allegations, when taken in the broader context of employee/employer relations, it is prudent to provide written reasons for my findings.

Count one Discreditable Conduct, and Count two Neglect of Duty.

The disciplinary system of any organization is designed to ensure compliance with the rules and regulations that represent the minimum requirements of good standing. How effectively and fairly the disciplinary system does its job is one measure of organizational integrity.

These obligations can only be discharged by the strictest attention to duty, a high standard of conduct and the subordination of personal considerations to the interest of the service and the community on the part of all ranks. In a service such as policing+ it is essential that a high standard of discipline should be maintained. Otherwise, the police service would be unable to retain the public confidence, and proper performance of their duties would become impossible.

The duties the police have to perform are varied and exacting; they are increasing and will probably still increase in variety and complexity. A person cannot make a good police officer unless their general intelligence, memory and powers of observation are distinctly above average.

The service-issued firearm is the ultimate symbol of authority of a police officer. It is the police officer that bears the burden of privilege and the onerous responsibility of carrying and safe storage of the instrument while off duty.

The public must be confident that police officers will strive to set an example for those in the community. Anything short of this will be seen as a contradiction and serve no other purpose but to undermine the efforts of all police officers and the explicit goals of the service. This was a clear misuse of the power vested in him, and in direct contravention of the rules respecting the handling and safe storage of firearms, the necessity to uphold the image of the police service and indeed common sense.

Count numbers three and four, Discreditable Conduct.

Police services have dedicated many officers, time and effort into educating the public with regard to Domestic Violence. More than anyone, police officers are witness to the devastation and carnage that occurs during these situations. This type of behaviour by a serving officer will have serious impact on the credibility of these programs, which are directed at the public.

A police officer lives and works in the community. They are expected to uphold standards higher than those of many other sections of the community. Police Services are highly vulnerable to public opinion so are their employees. Therefore, subject to a higher standard of conduct in both their personal and professional lives, and rightly so. Any involvement in the violation of the law, on duty or off, violates the public trust and undermines the respect the public has for law and order and those sworn to enforce it. They must not only be honest; they must establish in the community a reputation for uprightness and fair dealings that puts them beyond the reach of criticism and media attention that brings disrepute to the service.

In a public service such as policing it is essential that a high standard of discipline should be maintained, and those irregularities of conduct that would not be noticed in other employments should be the subject of disciplinary treatment. Otherwise the police would be unable to retain public confidence, and the proper performance of their duties would become impossible.

The conduct of Police Constable Darcy Lunn in these matters is completely at variance with the standards expected of members of the Chatham-Kent Police Service. Informed officers possess a sense of responsibility to the Service and the community, which they serve. It is unfortunate that, when faced with these situations, Police Constable Lunn would not have allowed himself to be guided by his better judgment and responsibility.

Police officers must conduct themselves in such exemplary ways to avoid discrediting or compromising the image of their police service. Indeed, their conduct must be exemplary at all times, even when off duty, to maintain a position of respect within the community in which they live and provide service.

This must be borne in mind when reviewing the actions of individual police officers, and when police officers have made an error in judgment. It should be taken into consideration whether punishment is due, and again determining what the punishment should be.

On the other hand, when misconduct is obviously a deliberate act, as in the actions of Police Constable Darcy Lunn, the punishment should be much greater. I adopt the old aphorism “to whom much is given, much is expected”. We give a great deal of power to our police officers and insofar as they are concerned, the aphorism might be put: “to whom much is given, much restraint is expected”. Clearly, the conduct of Police Constable Lunn towards Ms. Janine Bechard-Lunn showed a great deal of uncontrolled anger towards her.

I am reminded that the objectives of discipline are to correct unacceptable behaviour, deter others from engaging in similar behaviour and to ensure the public that police officers will be held accountable for misconduct. Public trust and interest must be protected and there is an expectation that those who hold public office as police officers will not breach this expectation.

The evidence presented to this Trier of Fact clearly demonstrates that the public interest was not first and foremost in the mind of Police Constable Lunn. Professionalism cannot be compromised. The public is entitled to have high expectations of a police service and its members. It is incumbent upon police services to ensure only these members who have exhibited self-discipline and adherence to the policies and procedures of the Service are entrusted to perform their duties within the Service.

This case disturbed me in the fact that the officer involved is a senior member of this Service, and someone who should be setting a good example for his subordinates, rather than being the focus of *Police Service Act* charges. His behaviour was alarmingly far short of the conduct expected of a serving officer, more so an officer with his length of seniority.

Mistakes and willful acts of disobedience are quite different.

Mistakes are generally tolerable because they are correctable, but an officer's willful disregard of the Rules and Regulations, the Oath of Office and the Core values of the Service will bring severe actions.

It has always been the position of this Trier-of-Fact that when a police officer falls afoul of the *Police Services Act*, he or she is entitled to fall back on their record of service. Police Constable Lunn's career profile indicates a continuum of complimentary reports throughout his employment up to the current time. I note the mixture of complimentary remarks concerning community issues and service commendations with regard to his excellent work as a serving police officer with the Chatham-Kent Police Service.

However, for the record, I wish to make it very clear that my consideration in arriving at a fair and reasonable disposition are directed by an appreciation of the seriousness of the actions that actually took place. The public must have confidence that the police will strive to set the example for those in the community. Anything short of this will be seen as a contradiction and serve no other purpose but to undermine the efforts of all serving officers and the explicit goals of the Chatham-Kent Police Service.

I hope Police Constable Lunn has learned a great deal from this entire experience, that this penalty constitutes a significant chance for him to rehabilitate his career with the Service. He also must recognize that any further substantiated misconduct is likely to be met with a more substantial penalty, up to and including his dismissal from the Service.

If not for the guilty plea; the officer's recognition of his misconduct; and his desire to rehabilitate his reputation with management, I would consider a greater penalty.

Disposition:

To reflect the seriousness of these offences, and as a general deterrent, it is the decision of this Tribunal bearing in mind all of the evidence before me, that **Police Constable Darcy Lunn, badge #5385 for the finding of guilt on three counts of Discreditable Conduct and one Count of Neglect of Duty he will be demoted from first class Constable to the rank of fourth class Constable for six (6) months, third class Constable for six (6) months, and second class Constable for six (6) months pursuant to section 85 (1)(c) of the *Police Services Act*, R.S.O. 1990**

Eighteen months after the date of this agreement, he shall be reinstated to the rank of first class constable.

Terence Kelly, Deputy Chief (Retired)

York Regional Police

Hearing Officer

Sentence Date December 15th, 2020.