

Former OPS officer acquitted of all charges

Written By Paula Brown

Local Journalism Initiative Reporter

Stephen Fisher, a former constable with the Orangeville Police Service (OPS) has been found not guilty of the two charges alleged against him, relating to the disclosure of a video conversation between two OPS officers.

Appearing in court via Zoom on Friday (Jan. 15) for the fifth day of his trial, Fisher was acquitted by Justice Shannon McPherson following final submissions by the defence and crown attorneys.

"Mr. Fisher, it is not my normal practice to give judgment without reasons, but in this case I am going to find you not guilty of both counts currently, as alleged against you. My reasons will follow it sometime in the future," said Justice McPherson.

Fisher was charged by the Ontario Provincial Police (OPP) in December of 2018, after an investigation was made into the release of a video which contained a conversation between manager officers, Const. Andy May and Staff. Sgt. Dave McLagan, reportedly discussing and harassing other employees. Fisher was charged with disclosure of private communication and breach of trust by a police officer.

Fisher's trial began on Jan. 11 and saw testimonies from OPS officers including former OPS Const. Andy May, OPP Sgt. Dave McLagan, Sgt. Steve Phillips, Const. James Giovanetti, Special Const. Rick Stevens, and Fisher himself.

Defense attorney Pamela Machado started her final submission by saying an internal policy of the Orangeville Police mandated reporting workplace violence and harassment "either in or outside the workplace, on or off duty to a direct supervisor. Machado noted that the policy did not account for what an officer must do when they can't report up the chain of command.

Machado argued that numerous conflicts of interest, made it so Fisher could not report up the chain of command, as per OPS policy.

Const. Giovanetti in his testimony said that there was little separation between frontline members and upper management at OPS which made it uncomfortable for people to bring complaints forward due to fear of reprisal.

"The evidence has also demonstrated the long contentious history of the Orangeville Police Service," said Machado. "The toxic work environment, the history of harassment by Andy May and the failure of the executive to act, all of which created a necessity for Steven Fisher to disclose this recording."

Throughout the trial it was established that Fisher found the video recording of Const. May and Staff Sgt. McLagan, discussing and allegedly harassing other employees on a computer in the OPS monitor room. A publication ban is currently in place for the video and information derived from it.

Machado in her submission noted that other employees of OPS had in the past made submissions of harassment against OPS supervisors with no outcome.

"One area that has been entirely absent from the Crown's case, is whether the content of the video did in fact amount to harassment," said Machado.

In her argument against the breach of trust by a police officer Machado said:

"He testified, he did not disclose this video to anyone other than a law enforcement officer. He did not therefore breach the standard

responsibility and conduct demanded, in fact, I would submit it is the opposite, as the public demands accountability and transparency from police.?

Crown attorney Katie Beaudoin in her submission argued that the conversation between May and McLagan was a private communication based on four factors.

?All [factors] lead to the conclusion that both May and McLagan had an expectation of privacy and were engaged in a private communication,? said Beaudoin.

Beaudoin also argued that Fisher went outside his purpose of assisting a harassment complaint, by disclosing the entirety of the 40 minute video and that he breached an oath of confidentiality.

?The oath of confidentiality requires police officers not to disclose any information obtained in the course of their duties as a police officer, unless authorized or required by law,? said Beaudoin. ?I submit Const. Fisher breached his oath of confidentiality by disclosing Orangeville Police property where it was not authorized or required by law.?

Justice McPherson asked Beaudoin to explain her conclusion that Fisher had breached his oath, as he had disclosed the property to another police officer.

?My submission is he gives it to a civilian who happens to be a special constable,? said Beaudoin.

Justice McPherson, at the conclusion of the Crown's submissions, ruled Fisher not guilty of both counts - disclosure of private communication and breach of trust by a police officer.