

DECISION

File No. 22-0124

NOVA SCOTIA POLICE REVIEW BOARD

IN THE MATTER OF: The *Police Act*, Chapter 31 of the *Acts* of 2004 and the Regulations made pursuant thereto

-and-

IN THE MATTER OF: An appeal filed by **Frederic Wolf**, Complainant against **Cst. Larry Roberge** of Halifax Regional Police. Requesting a review of a decision made by inspector Ron Legere dated December 14, 2022.

BEFORE: Jean McKenna, Chair
Hon. Simon J. MacDonald, Vice-Chair
Darlene Bowie, Board Member

COUNSEL: Brian Bailey, Counsel for Cst. Larry Roberge
Andrew Gough, Counsel for Halifax Regional Police

HEARING DATE: May 6 – 7, 2024

DECISION DATE: July 8, 2024

[1] This is the complaint of Fredric Wolf against Cst. Larry Roberge of the Halifax Regional Police (HRP), arising from a highway traffic stop on July 26, 2022. Mr. Wolf was driving on Highway 102 at the time.

[2] Mr. Wolf was self-represented. In his direct testimony, he testified as to his recollection of the events leading up to, and in the course of the stop. He said that afternoon, while driving on the 102, in the right lane, he noticed a white SUV tailgating him. He was uncomfortable, as there was another car in front of him, and so he moved into the left, passing lane. He said that in response, the SUV also changed lanes. At that point, he saw that the unmarked SUV activated its flashing police lights, and Mr. Wolf realized for the first time, that it was a police vehicle. In response he pulled over to the side of the road.

[3] He said that he saw Cst. Roberge approaching from behind, with his hand close to his sidearm holster. He was asked to place his hands in sight, on the wheel or dashboard; he said that Cst. Roberge said “you are making me nervous”, and that he was yelling at him. He was asked for his licence, as well as insurance and registration, and he testified that the insurance documents were in the trunk of the car. He did not ask to retrieve them, or mention this to Cst. Roberge, and said that he was afraid of what would happen if he asked to get out of the car.

[4] In cross examination, he agreed that he was told that he could attend HRP and produce the insurance document, in which case any charge in relation to insurance would be cancelled. (That did happen)

[5] He introduced some social media photographs which he retrieved from Cst. Roberge's Facebook page, sometime after the stop, and while he was in the process of filing his complaint. The profile picture showed an image which is a meme of a comic book character, "The Punisher". The Punisher is apparently an extremely violent character, who is a revenge driven vigilante.

[6] In cross examination by counsel for Cst. Roberge, Mr. Wolf acknowledged that the meme included the Canadian flag as background.

[7] Cst. Roberge has been a member of Halifax Regional Police for 18 years, with 9 years in traffic services. Prior to that, he was in the Canadian Armed Forces, serving a number of years with the military police. He testified that this particular type of stop is done with the use of "moving radar", and he described in detail how it is used when both the police vehicle and target vehicle are in motion. He is trained in its use, and has been an instructor on the technique.

[8] Cst. Roberge's recollection of the stop is somewhat different than that described by Mr. Wolf. He testified that when he first noticed Mr. Wolf, he came to his attention because he was driving fast, weaving in and out of traffic, passing vehicles by using the passing (left) lane, and then on the inside (right) lane as well. Initially Mr. Wolf was observed approximately 200 metres ahead of Cst. Roberge. When he made a move into the passing lane, Cst. Roberge pulled into that lane, and "clocked" him at 139 km/hr. The speed limit on that

section of the highway is 100 km/hr. It was at that point that he activated the police lights on his unmarked white SUV.

[9] He testified that Mr. Wolf pulled over, and stopped, in the vicinity of a highway exit, which was a safe area, quite wide. Cst. Roberge pulled in behind him, and as he was about to exit his vehicle, the Wolf vehicle began to move away, quite slowly, and came to a stop some 300 meters further ahead. Mr. Wolf, in his evidence, denied that this movement took place.

[10] Cst. Roberge testified that he then approached the Wolf vehicle, and asked him why he had moved ahead; he said that in response, Mr. Wolf just smiled. He testified that Mr. Wolf seemed confused.

[11] Cst. Roberge asked him for his licence, registration and insurance, and told him that he had been stopped for travelling at 139 km/hr in a 100 zone. He testified that Mr. Wolf searched the glove compartment but was unable to locate the insurance documents. He said that Mr. Wolf denied that he had been travelling at 139 km/hr. He testified that he told Mr. Wolf that he could present the insurance documents at HRP, and the ticket for that infraction would be withdrawn. (It was). A speeding ticket was issued.

[12] Cst. Roberge denied that he raised his voice, although admits he may have been speaking loudly; there is considerable traffic noise at the side of a 100 series highway.

[13] Cst. Roberge says he did not gesture towards his weapon, he suggested that. Mr. Wolf may have been confused, as when he approached the vehicle, his right hand would naturally be in the vicinity of his sidearm.

[14] Cst. Roberge did not recall saying to Mr. Wolf “You are making me nervous”, although in argument, counsel for HRP conceded that was certainly a possibility. Nothing turns on that fact, other than to note how it could contribute to Mr. Wolf's anxiety towards Cst. Roberge, at the scene.

[15] Cst. Roberge explained the “Punisher” meme, which had been introduced in Mr. Wolf's direct evidence. (See above). The “Punisher” is a fictional character, who seeks vengeance (rather than the justice system) on what are perceived as evil, criminal, individuals. He is reportedly very violent. He explained that the particular meme of the punisher logo represents PTSD to military and former military members. The meme includes a glowing gap over the right eye, and he said that the image is posted by former members of the military when a member or former member has taken their own life.

[16] A CAF member had recently taken his own life, and he had posted the image at that time, It only remained in place for a short time. He also said that his Facebook page does not identify him as a police officer.

[17] Mr. Wolf pled 'not guilty' to the speeding ticket, and the matter proceeded to trial on June 26, 2023. Both he and Cst. Roberge testified, and the transcript of the hearing was

entered as Exhibit 1 at the Board hearing. Mr. Wolf told the Board that he was not permitted to testify at the ticket hearing regarding the conduct of Cst. Roberge, including the moving forward after he had originally stopped. It seems from a review of the transcript that the Court simply advised Mr. Wolf that the “second movement” issue was not before her, as there had been no charge laid regarding that aspect.

CONCLUSION

[18] As noted, the evidence of Mr. Wolf and Cst. Roberge differs in some aspects of the events of that stop. Cst. Roberge testified that the Wolf vehicle came to his attention when he noticed it made several lane changes. Mr. Wolf denies this. As Cst. Roberge came within an estimated 200 meters behind the Wolf vehicle, Mr. Wolf moved into the passing lane. Mr. Wolf agrees but testified that the police vehicle was actually much closer, tailgating, and that he felt 'sandwiched' between the police vehicle and a vehicle ahead of him. He then moved into the left lane for safety reasons. We accept that Cst. Roberge followed suit, and while both vehicles were travelling in the left (passing) lane, he 'clocked' him at 139 km/hr. He then activated his lights, and in response, Mr. Wolf pulled over.

[19] Mr. Wolf says that that he “could not have been” traveling at that speed; he says he did not have GPS available, and he was unsure of his exit. For that reason, he would have been traveling below the speed limit, watching for his exit. However, he could only guess at his actual speed.

[20] It is not for the Board to determine whether Mr. Wolf was speeding. The Board accepts that Mr. Wolf genuinely believes that he was not speeding, however, Cst. Roberge's observation comes from a particular technical instrument. It is tested daily when coming into service, and Cst. Roberge is very experienced in its use.

[21] On these facts, there is nothing in Cst. Roberge's conduct in pulling over a speeding vehicle in this manner that would attract a disciplinary sanction. There is absolutely nothing to suggest that the Cst. manufactured his evidence on the question, or what possible motive he might have for doing so. His version is supported by his detailed notes on the Summary Offence ticket.

[22] The same applies to the movement of Mr. Wolf's vehicle after the initial stop; while the second vehicle movement is not reflected in the ticket notes, that is not surprising as there was no related charge. It seems that other than that movement, Mr. Wolf was fully compliant at the scene. There is no explanation as to why Mr. Wolf would move forward, but also no apparent reason why Cst. Roberge would manufacture his evidence on this point. It may be that Mr. Wolf did not feel that he had actually fully stopped in compliance, but that he simply continued to move along the shoulder at a very slow rate of speed to a point which, in his perspective, was safer. We do find that Mr. Wolf was a credible witness, but again, this is a case where his perception of events is different than that of Cst. Roberge, who saw this as a 'routine traffic stop'. (If such a thing exists).

[23] Mr. Wolf's complaint also focuses on the interaction with Cst. Roberge at the

scene. He thought that the constable's hand was gesturing towards his weapon in a threatening manner, and said "you are making me nervous". He said that Cst. Roberge was yelling, and that he told him to put his hands in sight, on the dash. He felt that this was a police officer "not in control of his emotions". He said he was fearful, and that "a citizen shouldn't fear for his own safety".

[24] The Board noted that in the course of the hearing, before his testimony, Cst. Roberge maintained a very stone - faced, somewhat angry, presentation. His presentation softened considerably when he testified, but it would not be surprising that at a roadside stop, he would not come across as a warm and friendly officer, particularly to a driver who seemed to believe that he had not been speeding, and who had moved ahead after the initial stop. However, his conduct was not of a manner such as would fall within a disciplinary default.

[25] As noted above, Mr. Wolf also testified about a Facebook search he conducted on Cst. Roberge. This took place at the time he was preparing his *Police Act* complaint. It incorporated a slightly modified "Punisher" meme, and Cst. Roberge explained the meme in his testimony. (See above).

[26] The Facebook page does not identify Cst. Roberge as a police officer, although it clearly identifies him by name. Obviously, it would be a simple matter for a citizen who has experienced an encounter, negative or positive, with an officer, to quickly locate the officer's Facebook page.

[27] While commemoration of a suicidal death of a colleague is commendable, there is nothing in the image used by Cst. Roberge to indicate to a member of the public that is the purpose. Rather, it leaves the impression of an individual who is seeking their own form of vengeful 'justice', through their own means. This appears to be the impression left with Mr. Wolf, no doubt (after the fact) supporting his perception of Cst. Roberge in the traffic stop.

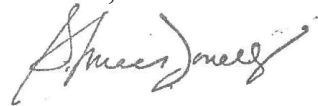
[28] Use of the “Punisher” image did not form part of the formal complaint. It was not raised in the course of the investigation of the complaint and was first raised at the Board hearing. In those circumstances, the Board cannot fairly deal with it as a possible disciplinary default. We do, however, note that regardless of how admirable commemoration of a fallen comrade may be, this meme as it is presented to the public is inappropriate in the use, particularly by members of law enforcement. We recommend that HRP consider the use of the image by member officers

[29] We find no disciplinary default, and the complaint presented is dismissed.

Dated at Halifax, Nova Scotia this 8th day of July, 2024.



Jean McKenna, Chair



Hon. Simon J. MacDonald, Vice-Chair



Darlene Bowie, Board Member