

Ontario Civilian Police Commission

Police Services Act

- Notice of Appeal-

Police Officer: Constable Adam LOURENCO #99971, Toronto Police Service

Complainants: B.A., M.M., Y.B. (deceased)

Prosecutor: Supt. Domenic Sinopoli, Toronto Police Service

Dates of Decisions Being Appealed:

- March 3, 2017 (Bias/Recusal Motion)
- August 29, 2019 (Disclosure Motion)
- January 15, 2021 (Finding of Guilt)
- April 30, 2021 (Penalty – not being appealed)

Decisions:

- Bias/Recusal Motion: denial of motion;
- Disclosure Motion: denial of motion;
- Findings of guilt: one count of unlawful arrest and one count of unlawful/unnecessary exercise of authority;
- Penalty: global forfeiture of 12 days (not being appealed).

Date of Appellant Receiving Written Notice of Decisions Being Appealed:

- March 3, 2017 (Bias/Recusal Motion)
- August 29, 2019 (Disclosure Motion)
- January 15, 2021 (Finding of Guilt)
- April 30, 2021 (Penalty – not being appealed)

I, hereby appeal to the Ontario Civilian Police Commission under subsection 87(1) of the *Police Services Act*, in respect of the following matter:

[x] The finding of misconduct or unsatisfactory work performance.

[] The penalty imposed.

[] The finding that misconduct or unsatisfactory work performance was not proved on clear and convincing evidence.

1. The grounds for my appeal are as follows:

- a) The Hearing Officer erred in law in failing to recuse himself despite the existence of a reasonable apprehension of bias;
- b) The Hearing Officer erred in law in denying the Appellant access to relevant and necessary disclosure, and in particular, evidence tending to undermine the credibility of Y.B., who was subsequently found to be a highly credible witness;
- c) The Hearing Officer made an unreasonable finding in determining that Lourenco punched B.A. in the head;
- d) The Hearing Officer's reasons for rejecting Lourenco's evidence were unreasonable and the product of a misapprehension of the evidence;
- e) The Hearing Officer erred in law in rendering irreconcilable and unreasonable verdicts;
- f) The Hearing Officer's finding that Lourenco was guilty of unlawful/unnecessary exercise of authority was premised on B.A. being struck twice despite offering no resistance; however, this conflicts with the Hearing Officer's conclusion that B.A. was at the time of the use of force lawfully arrested for assaulting Lourenco;
- g) The Hearing Officer erred in law in finding that Lourenco was justified in drawing and pointing his firearm to defend himself against a perceived assault by Y.B. and M.M., but was not entitled to arrest Y.B. and M.M. for that perceived assault;

- h) The Hearing Officer erred in law in finding that the arresting officers' "belief that [Y.B. and M.M.] were about to commit an offence was reasonable," but that the resulting arrest was unlawful;
- i) The Hearing Officer erred in law in finding Lourenco guilty of unlawful arrest despite making an explicit finding that the arrest was justified by section 495 of the *Criminal Code*;
- j) The Hearing Officer erred in law in interpreting the offence of assault;
- k) Such further and other grounds that counsel may advise and which the Commission accepts.


2. The evidence I will rely upon is as follows:

- The transcripts of the proceedings;
- The exhibits tendered;

3. The Order which I seek from the Commission is:

- An Order quashing the Findings of Guilt.

Date: May 28, 2021



Lawrence Gridin
Counsel for
Adam LOURENCO

TO: CHIEF OF POLICE/PROSECUTOR
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AND TO: PUBLIC COMPLAINANTS
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