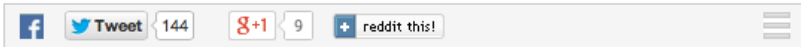


News / Crime

Judge blasts Toronto cop for 'fabricating' reason for search

Ruling Const. Juin Pinto lied in court and violated a man's Charter rights, a judge has tossed out another case where a handgun was discovered.



Const. Juin Pinto, pictured attending an inquest in 1993, was harshly criticized in a decision this week by Superior Court Justice Jane Kelly, who said he had "fabricated" reasons to conduct a search of a man during a vehicle stop in 2010.

By: [Wendy Gillis](#) News reporter, Published on Wed Apr 22 2015

For the second time in a month, an Ontario judge has tossed out a case involving the discovery of a handgun after ruling a Toronto police officer was dishonest in court and violated a citizen's Charter rights.

In a harsh decision released this month, Superior Court Justice Jane Kelly blasted Toronto police Const. Juin Pinto, who has a history of deceit in court, for "fabricating" his basis to conduct a search of Collin Conrad Taylor during a vehicle stop in August 2010.

Pinto testified he searched Taylor after smelling marijuana "everywhere" in the car — a claim Kelly found unbelievable, in part because the other officer on the scene did not smell the drug before searching the car.

"I find that there was no such smell and was simply fabricated in order to search both Mr. Taylor and his car," Kelly wrote in the decision. "The court must disassociate itself from such behaviour."

It was the second time Pinto was found to have lied using the "marijuana smell" scenario: In 2011, Ontario Superior Court Justice Anne Molloy called him out for attempting the same basis for a search. She also tossed out as evidence in that case the loaded gun found in the search.

"I do not believe he smelled marijuana, nor do I believe he saw marijuana ... He was working on a hunch," Molloy wrote in her ruling.

Pinto could not be reached for comment Wednesday. Toronto police could not respond by the end of the day Wednesday regarding whether Pinto is now under investigation by the force's Professional Standards unit, or if his conduct was investigated following Molloy's 2011 ruling.

When a judge finds a police officer lied in court, the trial prosecutor must inform his or her superior, who then decides whether the matter should be referred to the police for investigation.

The protocol was introduced after a Toronto Star investigation into police dishonesty in court found that it was rarely reported back to or acted upon by senior police officers.

The Ministry of the Attorney General would not comment on this case.

Kelly's April 2 decision came just days after another Toronto judge, Justice Ian Nordheimer, threw out a case involving a handgun, ruling the constitutional rights of Samatar Jinje, 20, were violated during a search.

Nordheimer ruled that [Const. Kimberley Sabadics](#) had "constructed" evidence "for the sole purpose of attempting to justify her hunch that (the accused) had a firearm."

In a rare move this week, outgoing Toronto police Chief Bill Blair weighed in on the case, telling Toronto Sun columnist Joe Warmington "this was great work."

"She took a gun off the street and that can save lives," Blair was quoted as saying. "My people do that kind of thing every day."

The comments took many in Toronto's legal community by surprise, including James Miglin, the lawyer who represented Jinje.

"It provides little public confidence that there's any accountability for this," he said Wednesday. "Let's hope the future chief doesn't suffer from those sorts of misgivings."

"A finding like this by a judge is very rare," said David Bayliss, the Toronto criminal lawyer who represented Taylor. "On the rare occasions that a dishonest police witness is caught out, they should be made examples of, not commended for their good police work. If not, a systemic problem will only be made worse."

Toronto police did not respond to a request for comment.

Mike McCormack, president of the Toronto Police Association, said his members understand they need to operate within the framework of the law.

"We're out there doing a very difficult job, and that's why we have the court system ... It's not necessarily that the officers did anything wrong, there could be an issue with the way they gave evidence, an issue with the way things were interpreted, there could be a whole bunch of circumstances. That's why when the judges make comments like that, that this is looked at" by the Professional Standards unit.

Under a precedent set in a 1999 Ontario Court of Appeal ruling, a previous judge's finding that a police officer was dishonest in court cannot be used in a subsequent case.

Daniel Brown, Toronto region director for the Criminal Lawyers' Association, said that prohibition makes it even more important for the public to know that when a judge concludes an officer probably lied in court, that misconduct will be investigated.

"A lack of transparency about the process of investigating police officers who lie under oath does nothing to foster confidence in our criminal justice system. This is especially true since judges are prohibited from relying on prior instances of untruthfulness when assessing an officer's testimony in court," Brown said in an email.