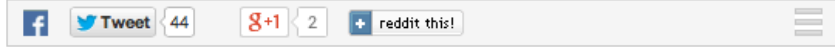


News / GTA

## Justice of the Peace retires, avoids disciplinary hearing

Allegations that JP Robert Whittaker held a bias toward immigrants and had a poor understanding of mental illness will never be tested in a public forum.



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Toronto paralegal Vartan Manoukian was one of the complainants who made allegations against former Justice of the Peace Robert Whittaker.

**By: Jacques Gallant** Staff Reporter, Published on Wed Apr 08 2015

Justice of the Peace Robert Whittaker was supposed to face a hearing on allegations that he showed a lack of understanding toward the mentally ill, had fined defendants who asked for interpreters but did not appear in court, and had pre-conceived notions about Somalis. Ten days before the hearing, he retired.

The March 25 hearing was then cancelled, meaning the allegations against the Toronto JP will never be tested in a public forum. That has left critics of the judicial system howling at what they say is a lack of accountability.

"It was another slap in the face," said paralegal Vartan Manoukian, who filed one of six complaints against Whittaker that were examined by the Justices of the Peace Review Council.

"There are a lot of unanswered questions. People are entitled to answers."

Whittaker, who presided at the provincial offences courthouse at 2700 Eglinton Ave. W. and earned more than \$122,000 a year, could not be reached for comment. His lawyer, Brian Irvine, declined comment.

It's unclear if Whittaker, who was appointed in March 1998, retired with a full pension.

"It is not appropriate for the Ministry of the Attorney General to comment on any matters involving judicial independence," said Christine Burke, a spokeswoman for Attorney General Madeleine Meilleur.

Whittaker's alleged comments and actions "are contrary to the impartiality and integrity of the judiciary," states a hearing notice from the review council dated Dec. 2, 2014.

"There has been a loss of confidence in your ability to act impartially and with integrity as a member of the judiciary, and this has negatively impacted on the respect for and confidence in you as a justice of the peace and in the judiciary generally."

The notice includes allegations that:

- Whittaker handed a \$50 fee to two defendants in two cases on Sept. 11, 2013, “in the absence of any legal authority to do so” — out of annoyance that a person requested an interpreter and then did not appear.
- He made comments on April 23, 2014, about taking a man’s driver’s licence away “at a point where he had not been found guilty of any offence,” because he was annoyed the man arrived late and offered the explanation that he was at the obstetrician’s office with his girlfriend, who was expecting their first child.
- Whittaker made comments while presiding in a case on Oct. 30, 2013, that “appeared to reflect pre-conceived notions about Somali persons and bias against the accused, who was Somali, and others with that background.”
- Whittaker made comments in a Jan. 22, 2014, case that “showed a lack of understanding and knowledge of mental illness, leaving the impression that you were making assumptions that were pre-judgmental based upon your personal beliefs or biases.”

The review council’s options, after a hearing of the kind Whittaker would have faced, include delivering a warning, a reprimand, an order to apologize, suspension with or without pay, or a recommendation to the Attorney General to remove the JP from office.

The complaint submitted by Manoukian, the paralegal, deals with a matter that took place on Sept. 11, 2013, when Manoukian asked a colleague to represent his client in court.

According to a court transcript, when the colleague confirmed to Whittaker that he was filling in for Manoukian, the justice of the peace replied: “Well, Mr. Gadsdon, for the record and I would suggest you improve your friends.” He then repeated the comment.

Manoukian told the Star he was upset he was not there to defend himself, and said he was concerned at what appeared to be an apprehension of bias against him. He said he was also troubled by the allegations involving Whittaker’s conduct toward people whose first language is not English.

“Some are from war-torn countries, or countries where their civil rights or human rights are not upheld, and they come to this country as a place where at least they can think they will be afforded some dignity and respect,” he said.

“I think this is a very sensitive issue, and the public, who pays Mr. Whittaker’s salary, and in particular the Ministry of Justice, needs to know why these comments were made, to act not just as a form of deterrence to Mr. Whittaker, but as general deterrence to others presiding over trials.”

The president of the Criminal Lawyers’ Association said the case raises two important issues: ensuring that the quality of applicants for the judiciary is high, and the need for a peer review mechanism to regularly monitor the performance of judges and justices of the peace.

“It doesn’t exist for judges at any level, and it should,” said Anthony Moustacalis. “You have examples where judges, like other people, are inadequate at doing their job, and they don’t meet the high standards of the public demand.”