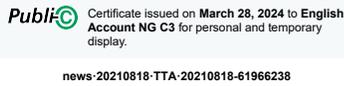


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Toronto cop still collects pay despite 'egregious' misconduct

Lawyer for convicted officer argues his actions stem from PTSD, substance abuse issues

Wendy Gillis Toronto Star

A twice criminally convicted Toronto police officer has been ordered to resign or be fired following a pattern of "egregious" misconduct, including pepper spraying a handcuffed man in the back of a police cruiser and causing a car crash after driving drunk.

But in spite of the rare dismissal at the Toronto police disciplinary tribunal, Const. Matthew Brewer remains on the payroll - suspended with pay from Toronto police after appealing the sentence. The appeal process puts his termination on hold and is likely to prolong his case for months or more.

In a written decision, Toronto police Supt. Riyaz Hussein ordered Brewer to resign within seven days or be fired after finding the officer's multiple incidents of misconduct - including a November 2019 impaired driving conviction - "individually and collectively egregious."

"PC Brewer's actions were so egregious that they raise insurmountable doubts about his future suitability as a police officer," Hussein wrote in the July 29

ruling.

David Butt, Brewer's lawyer, said he could not comment on his client's dismissal while it is being appealed to the Ontario Civilian Police Commission on the grounds that Hussein "misapplied the legal test for dismissal."

During the disciplinary hearing, Butt argued his client suffered from post-traumatic stress disorder (PTSD) but had taken steps to address a substance abuse disorder and had been sober since May 2019.

Hussein's decision to dismiss Brewer comes more than a year after the officer, hired in 2002, pleaded guilty to four counts of professional misconduct stemming from separate incidents spanning three years. Brewer has been suspended with pay since May 2019.

In September 2016, Brewer was responding to an assault outside a Yonge Street Popeyes restaurant when he pepper-sprayed a handcuffed man in the back of a police cruiser. Video of the incident showed the man, Tyrone Hines, crying out in pain and begging for help;

a judge later dropped four charges against Hines, calling Brewer's actions "obvious police brutality."

In 2018, Brewer entered a Whitby gym where his ex-partner was working out and "yelled abusive, insulting language at her," threw her keys and water bottle against a wall, then kicked over a garbage can in front of gym patrons, police tribunal documents state. Witnesses confirmed Brewer smelled of alcohol, was inebriated and that his vehicle was in the gym parking lot, according to an agreed statement of facts.

Later that day, Brewer texted a supervising officer who he believed was sleeping with his ex-partner, saying: "You are f---ing my wife... I'm gonna f--- you three ways from Friday."

In 2019, Brewer pleaded guilty to dangerous operation of a motor vehicle and impaired driving after causing a May 2019 crash in Durham region that resulted in extensive damage to both vehicles. Officers on scene "immediately noticed signs of impairment" and Brewer was "rude and belligerent to officers, firefighters, and paramedics who attend-

ed the scene," tribunal documents said.

Brewer was not sentenced to jail but received an 18-month license suspension, probation and a \$3,000 fine. Ontario Court Justice Peter West said despite the "horrible" facts in the impaired driving case - "you could have killed somebody," he said - Brewer had taken steps to put his life back together including getting sober.

The impaired driving case was the second time Brewer was convicted of a criminal charge.

In September 2017, Brewer pleaded guilty to unauthorized possession of a firearm and common nuisance after he brought a handgun into his bedroom, followed his spouse through the home holding the gun, then went outside and fired the gun multiple times into the air, according to a summary of the incident in a court document.

He received a suspended sentence and was placed on probation for two years. In October 2018 he pleaded guilty to discreditable conduct in connection to the incident and was docked five days' pay by the hearing officer, Peel Regional Police Supt. Dave Andrews.

During the 2018 proceeding, the tribunal heard that Brewer had also been disciplined for an Oct. 29, 2016, incident when he was drinking, in full uniform and on duty, in front of a downtown Toronto hospital.

Andrews noted that medical records showed Brewer was in a desperate state of crisis at the time, and that PTSD was an underlying issue for both the gun incident and Brewer's episode of on-the-job drinking.

He found the gun incident involved "the actions of a good man who was experiencing an acute and severe mental health crisis."

At the recent discipline hearing before Hussein, Butt, Brewer's lawyer, again argued his client's mental health condition needed to be taken into consideration and stressed that Brewer could still be a productive police officer. His client had completed a residency program at a mental health and addiction facility, Butt noted.

Butt said it was "strangely ironic" that when officers die in the line of duty they are treated as heroes, but if they "sacrifice their mental health serving their community, we treat them as pariahs."

"We actually owe him gratitude for not paying the ultimate price, but close to the ultimate price. And in that context, talk about firing somebody falls flat," Butt said, according to a summary of his arguments in Hussein's decision.

Police prosecutor Alexandra Ciobotaru said that while Brewer's disability was an explanation for his conduct, it is "not a defence."

Brewer "has severely damaged the reputation of the service and he is certainly at the point where his usefulness has been annulled," Ciobotaru said, according to Hussein's summary.

Hussein agreed that Brewer's repeated misconduct may be explained by the "disability and personal circumstances" but said they can't excuse his misconduct. He noted Brewer had already appeared before the tribunal and was given at that time "an opportunity to seek treatment and management of his concurrent illness."

Brewer's appeal of his dismissal alleges Hussein misapplied expert evidence that the officer's substance abuse disorder was in remission.

Kate Puddister, a University of Guelph professor who researches police oversight, said Brewer's case highlights one of the biggest challenges for police accountability: the public perception that there are different rules for police officers than for the public.

Public trust can be "seriously compromised" when a disciplinary process is drawn out over years, while the officer still gets the benefits of their position, she said.

Though she stressed that due process rights must be protected, "the current process hampers the ability of chiefs of police to respond effectively and swiftly to police officer misconduct."

She added: "The limited ability of chiefs of police to respond to cases such as these only furthers the perception held by many members of the public that police will protect fellow police officers at the expense of genuine accountability."

In June, the Ontario Association of Chiefs of Police renewed their call to the province for greater powers to suspend officers without pay. Currently, police chiefs can only cut off pay to a suspended officer if they are convicted of a crime and sentenced to jail time.