

IN THE MATTER OF THE APPEAL FROM DISCIPLINE PROCEEDING OF
CST. RAVINDER THANDI #244
PURSUANT TO THE PROVISIONS OF THE POLICE ACT

SUBMISSIONS OF CST. THANDI RE ADMISSION OF ORAL EVIDENCE

Overview

While the Appellant requested a Public Hearing, a review on the record was granted presumably based on the fact that the primary issue involved relates to the uncontracted psychiatric opinion provided at the disciplinary hearing.

The new evidence proposed relates to the following:

1. Updated information on Constable Thandi's current condition and the denial of disability benefits which may be relevant to any remedy as the adjudicator may propose. The dismissal for cause complicates Constable Thandi's ability to access his disability benefits.
2. Evidence regarding his recollection and judgment when in a hypomanic state (application for benefits) or severely depressive state (as experienced post termination and arrest for criminal charges).

Evidence regarding recollection when in a hypomanic or depressive state.

Constable Thandi suffered from obsessive compulsive disorder (OCD) and Bipolar 11 disorder and was diagnosed with a former in 2005 and the latter in 2009. Despite having these two conditions he was able to successfully perform his duties as a Police Constable with the exception of absences due to periods of depression. Unlike Bipolar 1 disorder which results in extreme behavior including psychosis, Bipolar 11 disorder is often simply misdiagnosed as a major depressive disorder and the periods of well-being or simply regarded as a normal state. Constable Thandi also obtained a Masters in Public

Administration in 2001 studying full time and working part time while suffering from these disorders.

Constable Thandi had demonstrated an ability to understand his depressive symptoms and book off sick as needed to address his depression. Despite being diagnosed with Bipolar 11 disorder in 2009 Constable Thandi had no real understanding or experience that the hypomanic aspect of this condition could negatively impact his judgment and cause him to stop taking his medication. It was a series of circumstances including commencing a whirlwind romance with a younger woman in 2012 and a serious MVA accident in 2013 which appear to be factors in his going off his medication and entering into hypomanic state which played a material role in his impaired judgment and impugned conduct. After his dismissal from APD, the resulting financial crisis and the criminal charges he entered into a deep and protracted depression which, according to Dr. [REDACTED], fuelled his OCD. As a result Constable Thandi breached a number of conditions of his termination and criminal charges.

The Challenge of Testifying when Cognitively Healthy about events occurring when Cognitively Impaired

The complexity of dealing with this type of disorder is that an individual who suffers from hypomania experiences extreme overconfidence and impairment in judgment and may be prone to “engage in high-risk activities which are likely to turn out poorly”.

Prior to the criminal code fraud charge, and the 2012 discipline incident, Constable Thandi had no history of this having engaged in high-risk activities and his only experience of the disorder was restricted to high periods of productivity which were a welcomed relief from his bouts of depression.

Significant depression is the dominant feature of Bipolar 11 disorder. The evidence led from Dr. [REDACTED] was that since these hypomanic periods may appear to be very normal that it is very difficult for a psychiatrist to diagnose the hypomanic aspects of Bipolar 11 disorders, As a result the condition can often be diagnosed simply as a major depressive disorder. Neither Dr. [REDACTED] nor Constable Thandi had reason to believe that his productive periods were of concern or would lead to periods of impaired judgment.

When an individual is in a hypomanic state they have overwhelming confidence in their ability to make the right decision quickly and yet their ability to see the consequences of their actions may be impaired. Dr. [REDACTED] described this as akin to a surfer riding a monstrous wave hundreds of feet above the ground not really aware of the persons below issuing warnings.

At various points in the investigation of Constable Thandi and in the hearing, Constable Thandi was asked to acknowledge statements he made, or conduct he engaged in, to the

investigators or in cross examination. In many cases he demonstrated limited or partial recall but despite this he was very willing to acknowledge what he did and that it was wrong.

The nature of the disorder directly raises the question of Constable Thandi's actual recollection of the extent to which he knowingly engaged in a reasoned decision making process prior to improperly claiming benefits. This requires Constable Thandi to separate his current thinking and views about his conduct from what he may have been considering at the point the conduct occurred and during which he was suffering from Bipolar 11 disorder and OCD.

Unfortunately, given the volume of disclosure material, and the steep learning curve in dealing with bipolar disorder I do not believe that I was able to correctly lead evidence from Constable Thandi that would assist in distinguishing his ex post facto admissions made when not in a hypomanic state from his actual memories and decision-making or lack of the same. In some cases this was accomplished almost inadvertently sense Constable Thandi mentioned he did not have a recollection and/or an explanation for his conduct. The proposed evidence is directed at assisting the adjudicator at better understanding this subtle distinction and more closely focusing Constable Thandi's evidence to the best of his abilities. Some aspects of the proposed evidence are already in the record however they are repeated in the will say statement below so as to provide the context for the proposed evidence which attempts to address his actual recollection of his cognitive decision-making during the periods in which his impugned behavior occurred.

Proposed Evidence

I anticipate that the evidence of Constable Thandi will be approximately 30 to 40 minutes. He will testify as follows:

“ Prior to 2012 I had no real understanding of the implications of my mood disorder on my judgment. Dr. Ancil simply described it as a condition of elevated mood but I was not aware that it could impair my judgment and functioning. Other than periods of high energy and confidence when starting my business I had not experienced any incidents of impaired judgment or moral failing.

In dealing with the investigation, and in the discipline hearing, I readily acknowledged statements which I was advised that I had made to investigating officers or allegations of other witnesses. I did this because my behavior, in improperly claiming benefits and breaching discipline conditions, was so upsetting that as a senior Police Constable I wanted to accept full responsibility for my actions. During cross-examination I acknowledged that I had limited

memory regarding many incidents which occurred during the period I was off medication commencing in or about 2012 and the period where I was severely depressed after being investigated and losing my job. I had significant challenges in making sense of my behavior and thinking at the time.

With respect to my application for benefits I testified that I had no recollection of filing the application but acknowledged that I made the application. While I have a very general recollection of communications with Human Resources regarding the benefits I have absolutely no recollection whatsoever that I was doing something immoral or wrong. I have no recollection of reading language warning me of the importance of not making untruthful statements or pausing to consider the impact that this would have on my career and my relationship with my employer and [REDACTED]. [REDACTED] was the HR professional who I knew for many years and who I considered to be a good friend. My predominant memory of that period was being involved in a whirlwind romance with [REDACTED] who I believed to be the person destined for me and who had removed me from the nightmare of ongoing regular depressions that I suffered.

I testified at the hearing that I am from a family of military, police officers and law enforcement officers and my job meant everything to me. As Police Constable I am aware of the utmost importance of being truthful and with the exception of these events I am very careful about the accuracy of my communications verbal or written. In the past I have had a number of small businesses and I read contracts over very carefully and took real care in the accuracy of what I committed to writing or what I said to potential customers. I was also aware that the APD took even small abuses of expense accounts extremely seriously and had fired long term Police Constables for failing to properly account for a couple of hundred dollars in the expense claims. The severity of the punishment was well known to APD officers and was frequently spoken about with the result that I and my colleagues were meticulous in submitting expenses.

Once the investigation started I was perplexed about what I had done. It is difficult to understand given that, while I had a general memory of putting [REDACTED] on my benefits scheme, I had no recollection whatsoever of filling the form out or that this action was wrong. I had no memory whatsoever that I misrepresented her status or even even reflected on the consequences of what I did. It is as if this part of my thinking simply did not occur. To commit any fraud for a police officer is extremely serious and something which would have normally focused my attention and raised significant anxiety in my doing or even considering anything like that.

To the best of my recollection ■■■ had not requested that I put her on benefits nor did she have pressing dental or medical issues that would have required this. My general memory was that I knew with complete certainty that she would be a part of my family forever and it made complete sense that she was on my benefit plan. On reflection today this makes little sense given that I had just met her and was considering a building a house that we could live in together with her young son. I now appreciate that my confidence in the future was completely unrealistic given that ■■■ was 20 years my junior, hung around with individuals with criminal records. Had been involved in the porn industry and was raised in a series of foster homes. I have no recollection of having any concern regarding any of these red flags and in retrospect it appears that that part of my brain was not functioning.

In early 2012 I developed a relationship with ■■■. At this time I had sufficient funds to pay for anything that ■■■ needed. I was also aware that being unemployed she was able to obtain some medical and dental benefits so getting on my plan would not under normal circumstances be a priority. In the course of our relationship I was extremely generous in buying ■■■ and her son anything they wanted. Even though our relationship was very young I took them to Disneyland, paid for her son's hockey school and ■■■ education. Finally I paid for an \$8000's breast enhancement surgery without any consideration of the expensive tuition my grade 12 son required for his education. In retrospect my conduct made little sense given that our relationship was at a very early stage. I certainly had no conscious understanding or appreciation that the benefits application was wrong or that it would jeopardize my profession.

In my mind I was convinced that ■■■ was going to be my life partner and would save me from my depression. Being off medication elevated my mood to such a high state that I felt that I could do nothing wrong and that ■■■ was going to be my life partner and I would rescue her and her son from a bad life.

My conduct in applying for benefits also made no sense given that as a Constable I was making \$120,000 and had the means to pay for whatever dental or other work ■■■ needed. During my relationship with ■■■ my predominant recollection is one of complete bliss. Even when the relationship cooled somewhat I was confident of our "forever commitment" only to find out that during this period she had been dating another man. In retrospect my judgment and decision-making in relation to ■■■ and generally was seriously flawed.

In my normal state, had I deliberately misrepresented or mischaracterized something in a legal document, or even thought of doing the same, that would have caused me huge anxiety and yet I have absolutely no recollection of filling

out the application, considering the accuracy of my statement or looking towards the consequences of providing inaccurate information or experiencing anxiety about any of my actions.

I also have no recollection of discussing with [REDACTED], the Human Resources advisor the question of the length of time that [REDACTED] and I had cohabited or my advising [REDACTED] that our relationship was long enough to satisfy the benefit criteria. The Human Resources professional [REDACTED] was a good friend who had assisted me in numerous ways to deal with sick leave for absences, gradual return to work and applying for benefits. Over the many years of dealing with her she became a close friend and a person whose trust I greatly valued. Had I been in good health I do not believe that I would have deliberately misrepresented my situation to a person whose trust I so valued.

In addition this behavior was completely at odds with my sense of morality as a peace officer, a father, a practicing Sikh and a proud family member of an extended family of military and law enforcement officers.

In the period after my dismissal and subsequent arrest on criminal charges I went into a period of deep depression combined with profound insomnia and obsessive compulsive thoughts which plague me to date.

When I was terminated and subsequently charged I was given a series of individuals I could not contact including [REDACTED] and her family members and was obligated to stay away from her workplace and place of school. During this time my anxiety and obsessive compulsive disorder was in overdrive in that I was obsessed with [REDACTED] safety given that I was aware that her boyfriend had a criminal background and I was convinced that he posed a an immediate danger to her and her family.

While being cross examined at the hearing I was often answering in the context my then mental health knowing that my breaches where rationally wrong. I had great difficulty explaining that in fact I could not exercise self-control over the compulsion in that I had no ability to stop my compulsion to act on my obsessive thoughts and ruminations.

Despite having had OCD my whole life I have never experienced this before in that typically OCD thoughts, while being mentally intrusive, do not cause me to act on those thoughts. Typically there are behaviors or rituals which will reduce the anxiety and help me deal with obsessive thoughts. In addition as a police constable I would impose disciplined rules to assist in managing my OCD which I believe may be a better police officer.

As a result of the tremendous stress I was dealing with from being dismissed and being deceived by a colleague who asked me for coffee only arrest me on my birthday, being charged criminally (which was announced by a public press release) and been unemployed and isolated from fellow officers (many of whom were friends who stop seeing me) my OCD reached a level that I had never experienced before. Not only was I flooded with intrusive thoughts that ■■■ was in danger but I was helpless from acting on those thoughts. Once my medications were reestablished these powerful thoughts eased and I was able to comply with the terms of my dismissal and conditions of my conditional discharge sentence.”

It is respectfully submitted that the provisions of the Police Act permit an adjudicator to exercise a broad discretion to introduce evidence in a Review on the Record. In light of the complex issues in this case, it is respectfully submitted that this information is critical to Constable Thandi receiving a proper reconsideration.

Respectfully submitted

Derek Creighton Counsel for Constable Thandi