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Lawyer Julian Falconer has built a career representing families of people killed by police or in custody

Lawyer stresses that his fight is not against the police, but rather bad police officers.

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Julian Falconer is recognized as "one of Canada's top human rights lawyers."

By: Jessica McDiarmid News reporter, Published on Thu Dec 19 2013

The first was Lester Donaldson.

Donaldson, 44, black, suffering from paranoid schizophrenia, was killed by police in his apartment in August 1988, apparently waving a paring knife.

Julian Falconer was called to the bar the following year.

The officer who shot Donaldson was charged and acquitted of manslaughter. Falconer, a few years into his career, agreed to represent the Urban Alliance on Race Relations at the coroner's inquest into Donaldson's death.

"That was the first time as a lawyer that I took a real shot at understanding how to disassemble a police narrative," said Falconer.

He's been doing it ever since, representing families of people killed at the hands of police officers or in custody, like Edmond Yu, Wayne Williams, Manish Odhavji, Ashley Smith, Douglas Minty, Levi Schaeffer. He shepherds them, often for years, through the legal labyrinth that descends in the wake of a police shooting or a death in custody.

On Thursday, two of those cases culminated in historic decisions.

After a four-year legal battle, Canada's highest court ruled it unacceptable for lawyers to help police write or vet their notes before independent investigators examine them in cases where civilians have been hurt or killed.

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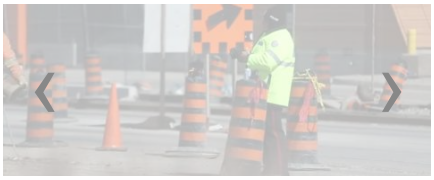

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Falconer fought the case to the Supreme Court of Canada, acting for the families of Schaeffer and Minty, two men killed by police officers in separate incidents in 2009.

Later Thursday, the jury at a coroner's inquest into the death of Ashley Smith ruled it a homicide. (In the inquest setting, that means someone contributed to the death. It does not assign blame.)

Smith, 19, died at the Grand Valley Institution for Women in Kitchener, Ont., after tying a ligature around her neck in 2007, something the troubled teen did frequently. Guards did not enter her cell until it was too late.

Falconer has called for another criminal investigation into her death, focusing on senior management who, the inquest heard, had instructed guards not to rush into her cell to prevent self-harm, but rather wait and monitor.

Growing up in Mont-Saint-Hilaire under the shadow of an isolated 400-metre hill of the same name just east of Montreal, Falconer always wanted to be a trial lawyer.

"Kids wanted to be firemen, policemen, astronauts. I wanted to be a lawyer," said Falconer. "It's a very hokey, boring story. That was my dream."

One of seven children born to a Jamaican father and a Polish Jewish mother, he studied at McGill University and the University of Toronto before receiving a law degree from the University of Alberta.

The Donaldson case opened the doors to a career spent partly in high-profile human rights and public interest litigation. He worked on the Ipperwash Inquiry, chaired the inquiry into student safety at Toronto District School Board schools after the 2007 shooting of Jordan Manners, and served as counsel for Maher Arar, a Canadian citizen deported by the U.S. to Syria where he was tortured.

Falconer has defended police officers, too, and stresses that his fight is not against the police, but rather bad police officers. He's received a slew of awards for his efforts.

Colleagues and clients describe Falconer as a steadfast champion of the public interest, a voice for the powerless, a changemaker.

"He is recognized as one of Canada's top human rights lawyers," said Gary Pieters, president of the Urban Alliance for Race Relations.

Fellow lawyer Peter Rosenthal, who worked with Falconer on the Ipperwash Inquiry, said he's "made extraordinary contributions to social justice issues."

"In policing, his work at a number of inquests has led to important recommendations and changes in the way police deal with, especially, mentally ill people," said Rosenthal.

In court, said Rosenthal, Falconer is "very smart, very adept in oral argument and cross-examination, and has assembled a great team of lawyers who assist him in preparing very powerful written materials."

Toronto Police Chief Bill Blair called Falconer a strong advocate as he announced the appointment of Frank Iacobucci to head a review of the Toronto police's use-of-force rules in the wake of the high-profile police shooting of Sammy Yatim, whose family Falconer is representing.

"Mr. Falconer has a contribution to make to this important discussion and I hope he'll have the opportunity to do that," said Blair.

Ceta Ramkhalawansingh, who worked with Falconer throughout her 30 years in Toronto's city equity office, said he's taken on high-profile cases in a principled, professional manner, lending credibility to causes.

"He's not a pushover, he's not the kind of lawyer who will just sort of wave a flag and be hysterical about it," said Ramkhalawansingh. "Institutions take him very seriously because of his approach.

Falconer breezes into the board room of his new offices on Alcorn Ave., late, in a pink shirt and dark coat, phone in hand. The team of six lawyers and five staff that comprise Falconers LLP moved in in late summer. One of the first items on the wall was a painting by Sandy Lake First Nation Chief Bart Meekis.

His work with First Nations in northern Ontario has been gratifying, exciting, said

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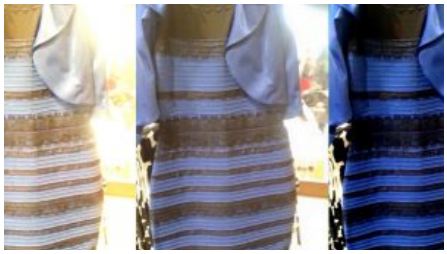

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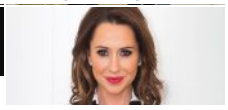

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Falconer, 54. He got his pilot's licence five years ago and now flies himself into the most remote places.

"These folks teach me. I have a very steep learning curve coming in and they teach me about their communities, about their communities' concerns."

Falconer said the law provides a structure for his otherwise scattered personality. Inside its rules and procedures, he finds the focus he needs to get things done, to help people.

"Law ended up being my vehicle. It wasn't on purpose, I didn't find it out until the Donaldson case," he said. "It's a way to help people where you can actually feel good about what you do. And most importantly — and this is the piece that sometimes gets missed — you actually get far more helping them than they get from you."

Falconer stresses, though, he's not Robin Hood and his reputation is at times "overdone." He has a house and a cottage, he makes a reasonable living. He combines social justice litigation with more traditional commercial work that keeps them in the game.

Earlier this fall, two decades after the Donaldson inquest, Falconer was retained by the family of Yatim, an 18-year-old who took eight police bullets on a Toronto streetcar in July.

The police officer who shot Yatim, Const. James Forcillo, is facing a second-degree murder charge.

In many ways, the death of Sammy Yatim is an echo of so many others.

"There was nothing different about the Sammy Yatim shooting from my perspective."

But there is a difference — video. Millions have heard the nine shots fired at Yatim, six of them after he crumpled; they've heard the Taser deployed when Yatim already had eight bullets in his dying body.

"Boom," said Falconer. "It changes everything."

When he heard about the Yatim case, there was just silence.

"I didn't say anything to anybody for days," said Falconer. "It's the same damn thing over and over and over again. I was just so frustrated and upset because nothing had changed."

There's money to pay officers under suspension, to cover their legal costs, to train them on how to use guns, but there isn't money for things like 24/7 crisis teams to respond to emotionally disturbed people.

"They can never financially justify doing this, or don't have the political will, in any event. But what's not working in the equation is that terrible erosion to the societal psyche that occurs when we shoot mentally ill people like dogs in the street," said Falconer. "We need to start teaching (police) how not to use the gun."

Now, the world has seen what a police shooting looks like — pictures Falconer has built in his mind through facts, evidence, paper, his entire career.

"The advent of the video is simply enabling advocates such as myself to communicate to the public what we already knew," said Falconer. "We have to rethink the notion of a Glock being emptied into a human being."

With files from Diana Zlomislic, Donovan Vincent and Tim Alamenciak