

Police officer who shot Douglas Minty can't be questioned on notebook vetting

The family of a man fatally shot by the OPP can't cross-examine the officers about discussions they had with lawyers before doing their notes.



Douglas Minty was shot by a police officer after he reportedly assaulted a door-to-door salesman.

By: **Donovan Vincent** News reporter, Published on Thu May 1 2014

The coroner in an upcoming inquest into the death of a man shot by an OPP officer in 2009 says the police involved can't be cross-examined about discussions they had with their lawyers before writing their notes.

Douglas Minty, a 59-year-old developmentally delayed man, was shot by Const. Jeff Seguin in Elmvale, Ont. after Minty reportedly assaulted a door-to-door salesman. Seguin fired five shots at Minty, who moved toward the officer brandishing what appeared to be an edged weapon.

Minty's original inquest began in Nov. 2012, but was adjourned because the issue of solicitor-client privilege, and how much detail a lawyer can give an officer with regards to preparing their notes before they're submitted to the Special Investigations Unit, was headed to the Supreme Court.

Last year the [high court ruled](#) that police officers' notes should be written immediately after an incident and without discussion with a lawyer.

“Permitting officers to consult with counsel before preparing their notes runs the risk that the focus of the notes will shift away from the officer’s public duty toward his or her private interest in justifying what has taken place. This shift would not be in accord with the officer’s duty,” Supreme Court Justice Michael Moldaver wrote on behalf of the majority.

The Minty incident, and another involving a fatal shooting, also in 2009, of a 30-year-old schizophrenic man near Pickle Lake by an OPP officer, were the focus of the Supreme Court decision.

But in his ruling, Dr. William Lucas, the coroner in the Minty inquest which is set to resume Tuesday in Simcoe County, ruled that Seguin and a fellow OPP officer who arrived after the shooting can’t be questioned at the inquest about their discussions at the time with their lawyers.

Seguin didn’t complete his note book at the time, but on a separate paper entitled “notes to lawyer” dated the day of the shooting, typed out an account of his recollection of the events, according to Lucas.

Lucas noted that Andrew McKay the lawyer representing Seguin at the inquest argued it was “well-established practice at the time” of the shooting that legal counsel could and would speak with police prior to the officers preparing their memo note books.

Lucas added the Supreme Court’s ruling on what police should do regarding when to fill out their notes is effective as of Dec. 2013 — the date of the ruling — and so didn’t apply at the time of Minty’s shooting.

“I find that it would be inappropriate for the declaration by the Supreme Court of Canada to be applied retrospectively...” wrote Lucas.

Toronto lawyer Julian Falconer, who is representing the Minty family, says the family has spent an enormous amount of “emotional and financial resources’ fighting for a full and transparent inquiry including going all the way to the Supreme Court.

“At 88 years of age, Evelyn Minty wants and deserves to have answers and is in no position to suffer further delay — so appealing this ruling may not be in the cards. But frankly, and with all due respect to Dr. Lucas, it is surprising to me as a lawyer that judgments of this country’s highest court are not to be given full and unqualified effect when the Supreme Court in no way qualified its ruling,” Falconer said in a statement.

Jim Christie, president of the Ontario Provincial Police Association said now and in the future officers have to do their notes before speaking to counsel, but at the time “the officers did nothing wrong” speaking to counsel first.

Tom Fitzgerald, coroner's counsel declined to comment on Lucas' ruling.

The SIU cleared the officers in the case.

The inquest is expected to last four weeks and to hear from approximately 20 witnesses.