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News / Crime

## Cop guilty of G20 assault won't be fired — but he loses 5 days' pay

The only Toronto officer convicted for excessive force at 2010's G20 summit gets a break because "the officer has already paid too large a price," according to the retired judge presiding over the hearing.

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Const Babak Andalib-Goortani in late 2010.

By: **Wendy Gillis** News reporter, Published on Mon Nov 09 2015

The sole Toronto Police officer [convicted for using excessive force at the G20 summit](#) has been docked five days' pay at a police disciplinary tribunal, after the retired judge who heard his case ruled Toronto police Const. Babak Andalib-Goortani "has already paid too large a price for his misdeed."

Andalib-Goortani [pleaded guilty last month](#) to misconduct under Ontario's Police Services Act after he was criminally convicted of assault with a weapon for striking G20 protester Adam Nobody with his baton at the June 2010 G20 Summit. The officer served no jail time.

During sentencing submissions, Nobody's lawyer Marc Gibson argued Andalib-Goortani's should immediately be dismissed — a penalty that has been meted out to other Ontario police officers found guilty of assault with a weapon.

Prosecutor Brendan van Niejenhuis asked for a penalty of a one-year demotion in Andalib-Goortani's rank from first-class constable to fourth-class, which would include a salary cut of approximately \$30,000.

But retired justice Lee Ferrier ruled the assault on Nobody was "barely over the line of wrongfulness," and the fallout from the assault has "wreaked havoc on the life of this officer," including the loss of his house and a depression diagnosis.

"The officer's three years of commendable record on the force have been followed by five years of turmoil — living with these proceedings hanging over his head for five

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years; the strain of a criminal proceeding followed by a criminal conviction, appeal and penalty; his marriage break-up; his limited employment activity in a desk job for a large part of that period; the effect on his health.”

“In my view, a penalty of forfeiture of five days’ pay is the appropriate penalty.”

Ferrier agreed that the officer’s use of force was unnecessary, but the blows were fleeting and physically minor. Ferrier said he received more than 60 letters attesting to Andalib-Goortani’s good character and devotion to his career — “these letters cannot be ignored when considering the question of penalty,” he said.

Ferrier also noted that Andalib-Goortani had three commendations and that he had rescued an elderly man trapped in a flood, “no doubt saving the man from serious injury or death.”

Julian Falconer, who along with Marc Gibson represented Nobody, said Ferrier’s decision is a “stunning result,” considering Andalib-Goortani’s conduct amounted to a criminal assault with a weapon.

“But it becomes a lot less surprising when one reads the decision. Not a single line in the 47-paragraph ruling address the impact of the assault on the victim, Adam Nobody, nor for that matter does the decision consider the impact of the officer’s conduct on public confidence in policing. It is a decision devoted entirely to how Const. Andalib-Goortani is a victim by virtue of the assault he committed on Adam Nobody.”

“Assuming public credibility matters, I am at a loss as to how this police complaint system is sustainable.”

Harry Black, Andalib-Goortani’s lawyer, did not respond to a request for comment Monday.

Andalib-Goortani was the only officer criminally convicted in connection to the G20, a weekend that’s become notorious for prompting the largest mass arrest in Canadian peacetime history.

His disciplinary matters are the final G20-related hearings because they were delayed until his criminal case was completed. The officer successfully appealed a 45-day jail sentence for the assault. He is currently working for the Toronto police performing administrative duties.

Four other officers were involved in Nobody’s violent arrest during a protest on the lawn of Queen’s Park on June 26, 2010. They were charged with disciplinary offences, but all have since been dismissed. That decision has been appealed by Nobody, according to Ferrier’s written decision.

Van Niejenhuis argued that Ferrier should take into consideration that Andalib-Goortani did not wear a badge number or name tag on the day of the assault — and that he was only identified as the officer with the baton six months after the G20, when citizens’ video recordings of the assault surfaced.

But Ferrier said it would be inappropriate to consider that failure to identify himself as an aggravating factor in determining a penalty because Andalib-Goortani has already been “administratively disciplined” for that.

Andalib-Goortani still faces a second G20-related police disciplinary hearing for misconduct, charged with using unnecessary force against blogger Wyndham Bettencourt-McCarthy. Andalib-Goortani was also charged with assault in that case, but acquitted in 2014 because a photo of the alleged attack — the only evidence against him — had been ruled inadmissible.

That hearing scheduled to begin next month, and Ferrier is presiding over the tribunal.

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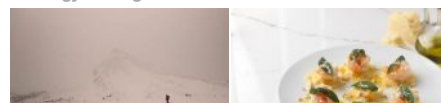


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