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# Protester seeks sterner punishment for G20 cop found guilty of misconduct

Alleging that a retired judge made legal errors, G20 protester Adam Nobody has filed a leave to appeal the penalty given to Const. Babak Andalib-Goortani by a recent police disciplinary tribunal.

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ANDREW FRANCIS WALLACE / TORONTO STAR [Order this photo](#)

Adam Nobody, seen early in 2015, is seeking leave to appeal the punishment given by a police disciplinary panel to the man who assaulted him: Const. Babak Andalib-Goortani. The constable was docked five days' pay.

By: **Wendy Gillis** News reporter, Published on Thu Jan 07 2016

G20 protester Adam Nobody has filed a leave to appeal the penalty handed to Toronto police Const. Babak Andalib-Goortani in a recent police disciplinary tribunal — a sentence Nobody's lawyers say "undermines public confidence in the police disciplinary process and the Toronto Police Service."

Goortani was [docked five days' pay at police disciplinary hearing in November](#), after pleading guilty to misconduct for being [convicted of assault with a weapon for striking Nobody with his baton at the June 2010 G20 Summit](#).

The docked pay was a far lesser penalty than the immediate dismissal sought by Nobody, the public complainant at the hearing. The prosecution had meanwhile argued the seriousness of Andalib-Goortani's conviction merited a yearlong demotion and its sizable accompanying pay cut.

But the hearing officer, retired justice Lee Ferrier, ruled the assault on Nobody was "barely over the line of wrongfulness." The fallout from the assault had "wreaked havoc on the life of this officer," Ferrier said, noting he had lost his house and been diagnosed with depression.

Andalib-Goortani "has already paid too large a price for his misdeed," Ferrier ruled.

In documents filed to the Ontario Civilian Police Commission Wednesday, Nobody's

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lawyers Julian Falconer and Marc Gibson argue that conclusion by Ferrier “resulted from a failure to correctly apply the appropriate legal principles.” The retired judge “made a number of legal errors” in setting the penalty.

“There is not a single reference in the hearing officer’s decision to the perspective of Mr. Nobody or other members of the public. This is contrary to the fundamental purposes of civilian oversight,” Falconer and Gibson wrote in the appeal document.

One of the errors which Nobody’s lawyers allege Ferrier made has to do with a decision not to admit Nobody’s medical records as evidence because it would be impossible to prove the exact cause of Nobody’s injuries. (At the criminal trial, the cause of Nobody’s injuries was found to be inconclusive but there was evidence he was injured during his arrest).

In his ruling, Ferrier calls the blows administered by Andalib-Goortani “fleeting,” and left no bruises or injury to Nobody.

“After ruling that the matter was not provable, it is inconsistent and illogical to subsequently find that Mr. Nobody was not injured by the respondent,” the lawyers write.

Falconer and Gibson are also critical of Ferrier’s suggestion that Andalib-Goortani had been “living with these proceedings hanging over his head for five years.”

“It would confound logic if the mere existence of the proceedings needed to determine a police officer’s guilt is a factor that could reduce the penalty he faces for his misconduct,” they write. “Disciplinary proceedings are not themselves part of their own penalty.”

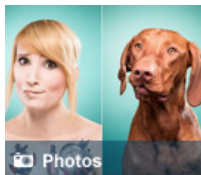
Nobody’s claim also argued Ferrier should have meted out a larger penalty considering Andalib-Goortani was not wearing a name tag at the time of the assault. Such an action is “likely to recur in future cases if not addressed by the commission.”

“The matters raised in the proposed appeal are of significant importance to the policing profession as a whole and the community at large,” Falconer and Gibson wrote.

Andalib-Goortani was the only Toronto police officer criminally convicted for using excessive force at the notorious 2010 G20 summit, and he served no jail time.

The officer is still facing a second G20-related police disciplinary hearing for misconduct, charged with using unnecessary force against blogger Wyndham Bettencourt-McCarthy. That hearing is ongoing.

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