

G20 protester allowed to appeal controversial penalty handed to cop

Adam Nobody, will be allowed to appeal a controversial penalty of five days' pay against Const. Babak Andalib-Goortani.



Babal
ORDE

am Nobody has been given permission to appeal a five-day sentence given to Babak Andalib-Goortani. (RICHARD LAUTENS / TORONTO STAR) | [ORDER THIS PHOTO](#)

By **WENDY GILLIS** News reporter
Wed., June 8, 2016

The protester beaten with a police baton in one of the most infamous [cases of G20 police misconduct](#) will be allowed to appeal a controversial disciplinary penalty handed to the officer convicted in the case.

Adam Nobody had wanted to see Const. Babak Andalib-Goortani dismissed at a Toronto police disciplinary hearing last year, where the officer faced a misconduct charge [after being criminally convicted for assaulting Nobody with a weapon](#).

The prosecutor, meanwhile, had asked for a year-long demotion and a sizable pay cut.

But after a lengthy sentencing decision last November, retired justice Lee Ferrier, the tribunal hearing officer, instead docked Andalib-Goortani five days' pay.

Ferrier said the officer "has already paid too large a price for his misdeed, and ruled the lengthy fallout had "wreaked havoc on the life of this officer."

Weeks later, Nobody and his lawyers [filed for an appeal of the sentence](#), alleging that Ferrier's decision "undermines public confidence in the police disciplinary process and the Toronto Police Service."

In a written ruling this week, the Ontario Civilian Police Commission (OCPC) agreed there were grounds to re-examine the sentence.

D. Stephen Jovanovic, associate chair of the OCPC — an independent, quasi-judicial agency that hears appeals of police tribunal decisions — noted there are still unresolved issues of “significant importance.”

“There is little doubt that the police conduct in the G20 Summit has been considered by many to be a rather notorious chapter in the history of, not only the TPS, but of other police services involved as well,” Jovanovic writes in the June 6 decision.

“Notwithstanding the passage of time since the summit, the matters raised in the proposed appeal remain of significant importance to the policing profession, as a whole, and the community at large.”

Adam Nobody is “relieved that this is going to be given another look,” said Julian Falconer, who represented Nobody alongside Marc Gibson.

Falconer noted that Ferrier’s decision made “absolutely no mention of the public interest, much less the interests of the victim,” and instead amounted to an expression of sympathy for an officer convicted of a crime.

“The commission obviously has the discretion to not hear an appeal. The fact that they are prepared to hear this appeal ought not to be surprising to anyone who understands that public interest is supposed to be at the heart of this decision-making process.”

Harry Black, Andalib-Goortani’s lawyer, could not be reached for comment Wednesday.

Andalib-Goortani was the sole officer criminally convicted in connection with the June 2010 summit, now infamous for prompting the largest mass arrest in Canadian peacetime history.

The appeal of the tribunal sentence opens a new chapter in the years-long saga of criminal trials and disciplinary hearings involving the officer.

In September 2013, Andalib-Goortani was convicted of assault with a weapon while arresting Nobody, who was protesting on the lawn of Queen’s Park in June 2010. That conviction was largely based on video footage showing Andalib-Goortani and other officers punching, kicking and striking Nobody with a baton.

That judge sentenced Andalib-Goortani to 45 days in jail, but the same day the sentence came down he was released on bail pending appeal.

A Superior Court Justice later upheld the assault conviction, but overturned the jail sentence. Instead, Andalib-Goortani was ordered to serve a year of probation and perform 75 hours of community service.

Andalib-Goortani was soon after charged with police misconduct under the province’s Police Services Act — a charge automatically laid against any Ontario cop who is criminally convicted.

In addition to the disciplinary matter involving Nobody, Andalib-Goortani still faces a second G20-related police disciplinary hearing for misconduct. He is charged with using unnecessary force against blogger Wyndham Bettencourt-McCarthy.

Andalib-Goortani had also been charged with assault in that case, but was acquitted in 2014 because a photo of the alleged attack — the only evidence against him — had been ruled inadmissible.

Ferrier is presiding over that tribunal hearing, scheduled to begin in October.

Meaghan Gray, spokesperson for the Toronto police, said she believes Ferrier is still the hearing officer in that case.

Wendy Gillis can be reached at wgillis@thestar.ca