

Lawyers discussing bail conditions for cop charged in Dafonte Miller beating



Lawyers for the Crown and the defence were in a Whitby courtroom Friday, hashing out the bail conditions to be imposed on a Toronto police constable and his brother accused of severely beating a Whitby teenager late last year.

Dafonte Miller, 19, was walking on a residential street in Whitby on Dec. 28, 2016 when two men standing inside a garage of a nearby home confronted him and his friends.

One of Miller's lawyers, Julian Falconer, said that one of the men identified himself as a police officer and when Miller declined to answer his questions, the officer and another man, later identified as the officer's brother, chased Miller.



Image of Dafonte Miller after he was brutally beaten by an off-duty Toronto police officer in Whitby in December of 2016.



The pair allegedly beat Miller severely, damaging his eye so badly it will eventually have to be surgically removed.

None of the charges have been proven in court.

The Special Investigations Unit was not initially notified about the incident but began an investigation in April, after they were contacted by Falconer.

Const. Michael Theriault and his brother were charged earlier this month with aggravated assault, assault with a weapon and public mischief.

Another attorney representing Miller, Asha James, told CP24 Friday that it is likely the brothers' bail conditions will include an alcohol consumption ban, a weapons ban, and a restriction on leaving the province.

She said both the Crown and the defence have asked the judge to impose a publication ban on the entirety of the proceedings.

James said Miller is still recovering from the assault emotionally and physically, but is keeping aware of proceedings in court.

"This is traumatic for people just watching the video (of his injuries) so we can only imagine what it's been like for him to live this experience – but he wants to see justice done."

The Theriault brothers' case will return to court on Aug. 2.

Independent police review underway

On Thursday, Toronto Police chief Mark Saunders ordered that an independent review of police handling of the investigation into the alleged assault be referred to the Waterloo Regional Police Service.

James said her client welcomes a third-party review but wonders if Waterloo police are best suited for it, given they are currently facing a class-action lawsuit alleging the service ignored repeated claims of systemic gender-based discrimination, sexual harassment and sexual assault.

The suit seeks \$165 million in damages.

"We're not sure that they would be the right service to do that."

Toronto Mayor John Tory said that if the report produced by Waterloo Regional Police doesn't answer all the questions regarding the case, he'd be open to taking other steps.

"If that report is not satisfaction – we'll do whatever we have to do make sure those questions get answered."

Miller's lawyer disputes DRPS version of events

Durham Regional Police Chief Paul Martin released a statement Friday saying the independent review by Waterloo police "is in the best interests of everyone involved."

He commented on some elements of the assault that have been questioned by the public, saying his officers informed Toronto police as soon as they were aware an off-duty Toronto cop was involved.

"We contacted that service to share the information that we had at the time. Under the legislation, it is the responsibility of the police service who employs the officer to make the determination about contacting the SIU," Martin said."

He also said Durham officers made sure "medical assistance was promptly provided to" Miller, something his lawyers dispute.

"(Officers) put Miller on the hood of the car of the homeowner and parts of his face and eye and skin were left on the hood of the car," Julian Falconer told CP24 on Friday. "That is an utter total misinformation."

Falconer also maintains that Durham police did not interview the owner of the home and yard where the alleged assault took place, despite the fact that a significant amount of blood and other physical evidence was plainly present.

Martin said Friday that police "interviewed multiple people, evidence was collected and photographs were taken."