

ONTARIO PROVINCIAL POLICE HEARING

Judge asked to recuse himself over comments about Fantino

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When a hearing resumes today at Ontario Provincial Police headquarters in Orillia it will be the latest chapter in a legal saga that started as an incident of domestic violence involving an OPP officer.

In the ensuing years the case prompted allegations that OPP Commissioner Julian Fantino was running a personal vendetta against his underlings. It has now snowballed into claims of political meddling.

The adjudicator hearing the case, Mr. Justice Leonard Montgomery, was asked last week to recuse himself by prosecutor Brian Gover.

Mr. Gover said the judge made biased remarks about Commissioner Fantino when the high-profile OPP boss testified last month.

Judge Montgomery had stopped Commissioner Fantino's testimony and suggested it sounded like someone had coached him during the lunch break.

If Judge Montgomery refuses to withdraw, "we expect to have the Attorney-General's support" in appealing, Mr. Gover said.

Julian Falconer, who represents the two OPP officers facing disciplinary charges, raised concerns about outside interference. "What is one to think now? An Attorney-General has weighed in through Mr. Gover before a decision is rendered," he told the tribunal.

The matter even came up at the legislature, raised by NDP Leader Howard Hampton. "How can a fair hearing happen under conditions like that?" Mr. Hampton asked.

Attorney-General Chris Bentley said he couldn't comment on an ongoing court case. A spokesman has said the ministry has taken no position.

The affair began in 2005 when Mr. Falconer's clients, Superintendent Ken MacDonald and Inspector Alison Jevons of the OPP's Professional Standards Branch, investigated a complaint that the OPP had mishandled the case of a sergeant accused of bashing his ex-spouse's car with a bat.

The officers were then the object of a complaint by Karl Walsh, the head of the OPP union, the Ontario Provincial Police Association, which triggered the disciplinary hearing.

The tribunal has heard that Mr. Walsh was himself under investigation by the Professional Standards Branch on allegations he used OPP e-mail for personal business and counselled an officer to deceive a superior.

By approving the charges against Supt. MacDonald and Insp. Jevons, Commissioner Fantino was trying to placate the union, Mr. Falconer has alleged in court, introducing into evidence

an OPPA memo that said: "We may have the ammo to take out MacDonald."

Mr. Falconer is asking the tribunal to dismiss the case, alleging that Commissioner Fantino had his own grudge against Supt. MacDonald because he wrongfully thought he was behind a damaging leak.

Previous testimony shows that Commissioner Fantino talked to Chief Superintendent Bill Grodzinski about the leak's author, and said: "Are you going to execute the disloyal one or do you want me to?"

Under cross-examination by Mr. Falconer, Commissioner Fantino confirmed he was talking about Supt. MacDonald, calling it "police-appropriate language."

Chief Supt. Grodzinski found the remark interesting enough that he wrote it down. When he was called to testify, he was ordered transferred to North Bay - a move he said felt like "immediate reprisal."

The tribunal heard that the transfer became so contentious that Deborah Newman, the deputy minister at the Ministry of Community Safety responsible for the OPP, waded in.

She contacted OPP Deputy Commissioner Chris Lewis. The gist of Ms. Newman's call, Deputy Commissioner Lewis testified, was that "it would not look good to suddenly move Bill Grodzinski, it looked like there was some sort of - something more sinister at play there."

Commissioner Fantino denied there was a witch hunt and noted that Chief Supt. Grodzinski's transfer was cancelled after he said his wife couldn't relocate for health reasons.