

Teen acquitted of assaulting cop; Officer in scuffle made it 'personal,' judge says

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ABSTRACT

While I'm satisfied that Const. Mishio was a police officer engaged in the exercise of his duties--up to a point--I have some doubt...that an assault was committed.

FULL TEXT

A teen charged with assaulting a police officer was acquitted Thursday after a judge ruled the officer took offence at the young man's attitude and engaged in a personal fight with him.

Provincial Court Judge Michael Stevens-Guille said Const. Terry Mishio approached Cory Royer, 19, and stepped up to him "nose to nose, chin to chin." Royer pushed the officer once with both hands in a reactive, "non-violent" fashion, Stevens-Guille said, and "after that, in my view, it all becomes personal.

"He's going to take this guy down."

Court heard Mishio pepper-sprayed Royer, tried a head stun, put the teen in a prohibited choke hold, then pepper-sprayed him again. The officer then pushed the teen to the ground and stopped when Royer's friend allegedly kicked him in the head.

The case made headlines in May 2008 when police Chief Mike Boyd used the case to illustrate what he said was a growing trend of citizens attacking police officers.

"This is an attack on society when you have police officers being attacked," Boyd said at the time. "I'm putting everybody on notice...This city is not tolerating this kind of mugging and swarming mentality."

A police information officer told reporters at the time that Mishio had approached Royer on May 12, 2008, because he was "stunting" in his car outside Eastglen High School.

When Mishio walked up, the spokeswoman said, Royer pushed the officer away and had to be pepper-sprayed, then his passenger got out with a baseball bat and also had to be pepper-sprayed.

Stevens-Guille's ruling offered a different version of events.

The judge said Mishio saw Royer revving his engine and "burning a U-turn" earlier in the day, but only approached the teen later, when he happened upon Royer and his friend in the midst of an altercation with another young man. Stevens-Guille said Mishio stepped up to Royer and threatened to arrest him for stunting, even though the Traffic Safety Act does not allow officers to arrest people for such violations. When he stepped close to Royer, the teen pushed him, and Mishio got "more annoyed than anyone cares to say," Stevens-Guille said.

"Some of the things he did on the scene make one wonder," the judge said. "While I'm satisfied that Const. Mishio was a police officer engaged in the exercise of his duties--up to a point--I have some doubt...that an assault was committed.

"I think here is a little bit of personal animosity," Stevens-Guille ruled. "They were fighting."

Outside court, Royer said he would have handled the situation differently in retrospect, but he was pleased with the outcome.

"What they did was just wrong. They should not be able to come up and do what they do."

Stevens-Guille dismissed both charges against Royer for resisting arrest and assaulting a police officer.

David Randel Patton, 21, is charged with possession of a weapon and aggravated assault for allegedly kicking the

officer in the head. The date of his next court appearance is not known.

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