

# Assault ruling 'devastating'; Judge gives veteran officers six-month conditional discharges in trespassing case

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## ABSTRACT (ABSTRACT)

Defence lawyers for the two officers had sought absolute discharge for their clients, citing their impressive community and professional contributions as mitigating factors. They described their clients as being devastated when the court found them guilty of trespassing on the home of Herve Dubois on Dec. 2, 2004, and assaulting him after he told them to leave because they didn't have a warrant. He was pepper-sprayed and suffered a broken rib after he pushed [Jamie Ewatski].

[John Fiorilli] was tortured by the fact he let a fellow senior and highly respected officer down, she said. "Jamie Ewatski is a man he would follow off a cliff."

Ewatski entered the home to speak to him and Dubois shoved him. Ewatski responded by delivering a head-stun. He pushed Dubois to the floor and pepper-sprayed him. Fiorilli pulled back on Dubois's thumb to cause pain. The men struggled on the floor before Dubois was handcuffed and charged with assaulting a police officer. The charge was later stayed.

## ABSTRACT

Provincial Court Judge Vaughn Myers said it was not easy to reach a sentence that balanced the seriousness of the assault against the otherwise impeccable career records of police veterans Staff Sgt. Jamie Ewatski and Patrol Sgt. John Fiorilli. Stevens said the numerous support letters she received described Fiorilli as a dedicated, loving family man, a police officer who is passionate about, and committed to, upholding the law.

## FULL TEXT

EDMONTON - Two Edmonton police officers found guilty of assaulting a man in his own home were each given six-month conditional discharges Friday and ordered to perform 60 hours of community service.

Provincial Court Judge Vaughn Myers said it was not easy to reach a sentence that balanced the seriousness of the assault against the otherwise impeccable career records of police veterans Staff Sgt. Jamie Ewatski and Patrol Sgt. John Fiorilli.

However, had the home belonged to another police officer or a court official, and the officers were granted absolute discharges, there would be a public uproar, Myers said. "The moment the court treats the home of an electrician with any less sanctity is the day justice has left the building."

The conditional discharges will become absolute discharges after six months and the two officers have completed their community service. It means that while they will have criminal records, they will not have any criminal convictions, Crown prosecutor Jonathan Hak said.

Defence lawyers for the two officers had sought absolute discharge for their clients, citing their impressive community and professional contributions as mitigating factors. They described their clients as being devastated when the court found them guilty of trespassing on the home of Herve Dubois on Dec. 2, 2004, and assaulting him

after he told them to leave because they didn't have a warrant. He was pepper-sprayed and suffered a broken rib after he pushed Ewatski.

Defence lawyer Kirk MacDonald told court Ewatski is a 30-year veteran with a stellar career record. He received numerous support letters describing the police officer as a pillar in his community, a dedicated coach who is admired and respected both by the kids he coaches and their parents. He has worked for years as a resource officer in an Edmonton school.

"It was excruciating for this man to have been found to have breached the law. It is embarrassing and troubling for him to have been found guilty," MacDonald said.

"He was trying to make peace, trying to smooth the waters, trying to do public relations for the Edmonton Police Service. This was no loss of control. There was no calculated attempt to breach (Dubois's) rights. The officer only struck when he was struck first."

Laura Stevens, defence counsel for Fiorilli, said her client was overwhelmed by the guilty verdict earlier in the week.

"It had a gut-wrenching effect. It was not simply embarrassing, it was devastating" to the 29-year veteran who has received accommodations and citations for his exemplary police work.

The stress of the trial and publicity it received has left him 30 pounds lighter and with many sleepless nights, she said.

Stevens said the numerous support letters she received described Fiorilli as a dedicated, loving family man, a police officer who is passionate about, and committed to, upholding the law.

Fiorilli was tortured by the fact he let a fellow senior and highly respected officer down, she said. "Jamie Ewatski is a man he would follow off a cliff."

Police received a tip on Dec. 2, 2004, that a fugitive named Kevin Light, wanted on 17 outstanding warrants, was hiding at his uncle's home near 96th Street and 148th Avenue.

Five officers went to the home. Ewatski was in charge. Junior Const. Dwayne Karpo was given the task of making the arrest at the door.

In his ruling, Myers found the officers knew they needed a special warrant, known as a Feeney warrant, to enter the home and make an arrest. They agreed that if Light did not come to the door, Karpo was to get as much information as he could, then they would seek a warrant. But Karpo entered the home anyway and the other officers followed, except for Ewatski.

Dubois, who was drunk, repeatedly asked the officers for a warrant and told them to leave. Fiorilli pushed him against the kitchen cabinets and told him he was obstructing a police officer.

Dubois dialed 911 and told them police were beating him up. Light was eventually arrested and removed from the home. Dubois, who was agitated, yelled at the officers.

Ewatski entered the home to speak to him and Dubois shoved him. Ewatski responded by delivering a head-stun. He pushed Dubois to the floor and pepper-sprayed him. Fiorilli pulled back on Dubois's thumb to cause pain. The men struggled on the floor before Dubois was handcuffed and charged with assaulting a police officer. The charge was later stayed.

Myers said Dubois was within his rights to demand the trespassing officers leave his home and to push the officer.

A police spokesman said Friday the Police Act requires that an internal investigation into the matter be done.

"Chief Mike Boyd has confirmed that there will be no immediate change to the work assignment or status of the officers pending conclusion of the internal investigation," police spokeswoman Dajana Fabjanovich said in a news release.

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Credit: Florence Loyie; The Edmonton Journal

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