

McKay Versus Toronto Police Services Board 2011

An aboriginal man was the victim of racial profiling when he was wrongly arrested in Toronto for possessing a stolen bicycle, the Human Rights Tribunal of Ontario has found.

The complaint stemmed from an incident early in the morning of July 9, 2003, when Garry McKay and another aboriginal man were stopped by police while walking in a laneway with his new-looking bicycle around St. Clair Ave. W. and Caledonia Road.

McKay, who is Oji-Cree, was starting his workday delivering flyers for a pizzeria.

Tribunal adjudicator Ena Chadha noted in her decision that McKay was polite and cooperative, and provided police with his name, date of birth and address, but had no identification on him.

A police computer check that morning found there were no outstanding warrants on McKay or the man with him.

But Const. Christopher Fitkin of 13 Division remained suspicious, in part because he thought McKay looked dishevelled, according to Chadha's 59-page decision.

Fitkin told the hearing that he believed someone with such a pristine bicycle would take better care of his clothes.

McKay was placed under arrest, even though the colour and speed of the blue Kona 24-speed bicycle did not match a bicycle with the same brand listed in the police computer as stolen in Manitoba.

McKay, who was 51 years old at the time, was arrested for possession of stolen property, patted down for weapons, handcuffed and placed in a cruiser for 19 minutes.

“McKay told Fitkin that it was a crazy idea to think he had stolen the bike because he would never had been able to ride the bike all the way from Winnipeg,” McKay also insisted he could produce a receipt.

The officers said the questioning of McKay was not racially based, but a matter of routine, and that McKay was initially arrested because identification records indicated the bike had been stolen in Winnipeg.

“I find the personal respondent discriminated against the complainant on the basis of race,” Chadha wrote.

McKay said he and his friend that day both had long black hair and dark complexions.

“Fitkin testified that nothing unusual had occurred on the patrol shift leading up to the laneway stop,” Chadha wrote. “There were no specific reports of criminal activity in the area that night, nor had McKay ... behaved suspiciously (other than enter the laneway) so as to attract police attention.”

QUESTIONS:

- 1) WHY DO YOU THINK THAT A POLICE OFFICER WOULD BELIEVE THAT THE ENCOUNTER LIKE THE ONE ABOVE IS A “MATTER OF ROUTINE” AND NOT RACIST?
- 2) CAN YOU IMAGINE HOW ABORIGINAL STEROTYPES MIGHT BE INVOLVED IN THIS ENCOUNTER?
- 3) WHAT IS THE IMPORTANCE OF A “SOCIAL HISTORICAL LENS” FOR A COMPREHENSIVE UNDERSTANDING OF RACE RELATIONS?