

**CONSEIL DE LA MAGISTRATURE**

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**2001 CMQC 76**

**Montréal, le 19 juin 2002**

**PLAINTÉ DE:**

**Monsieur K. N.**

**À L'ÉGARD DE:**

**M. le juge de paix (...)**

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**DÉCISION À LA SUITE DE L'EXAMEN D'UNE PLAINTÉ**

**La plainté**

[1] Dans une lettre adressée au Conseil de la magistrature du Québec le 22 février 2002, monsieur K. N., porte plainté à l'encontre de monsieur (...)juge de paix, au Palais de justice à (...).

[2] Le 19 février 2002, le plaignant se serait présenté au bureau du juge pour y déposer une plainté privée contre des agents de sécurité du Centre commercial (...), avec lesquels il aurait eu maille à partir. Il aurait eu à revenir rencontrer le juge (...), le lendemain.

[3] La plainté écrite du 22 février 2002 se lit comme suit :

- 1- «On February 19, 2002, at 2:45 PM I attended at the office of Justice of Peace at room 12.82. At 4:05 PM, (...) JP stepped out and in front everyone rejected to take my complaint. He was very rude: Are you going to JP in Toronto like this, without appointment. I replied affirmative. HE SAID: No!! You are lying to me! You must call and get appointment. I said that I was tourist and I must leave, and I was single parent and my children were waiting for me. He oppressively said: I don't care, CALL

and get appointment. While I was in his office and could give me appointment.

- 2- On February 20, 2002 at 11 AM I attended with appointment, however (...) PJ, maliciously, up to 12:10 did not accepted me. And after that, he was very rude. And allow his office door be opened and was talking very loudly about my complaint that prople coud hear.

FOUR TIMES (...) JP asked me: Who send you hear, I said Prosecutor T. Again asked differently : Have you seen the Attorney General.

FOUR TIMES (...) JP asked who gives you these forms for complaint, I said room 1.140, he was not believing me.

Then (...) JP brought excuse for not laying charges for assault and theft, by saying that Form SL-242B(2000 01) was wrong. I asked from the clerk L. G. in room 1.140; she said this is the only form that we have give to everyone; (...) Jp wants to reject you; otherwise this is the only form that we have and he never reject.

I said same to (...) JP, again he was very rude to me; and said that could not read my handwriting, I read it for him. Finally I became tried of his misconduct and asked him WHERE I CAN FILE COMPLAINT AGAINST YOU; I asked about address of your office.

(...) JP said you can not file complaint against me in Quebec, we have diferent rules "I did not accepted and asked him again. He asked me if I have crminial record; he asked me for my file number in the Supreme Court of Canada, which was not relevant to the issue.

I said that I filed complaint against police with Qubec Human Rights Commission, he did not belive and asked me for prove, I gave him the file number; and many other particulars that there is no time to write them.

Finally, (...) JP refused to sign, while he have seen the list of witnesses and evidence and in fornt of his Secrtery and Others ordered me to live pubic office and said to Secrtery to call Securities, and ordered me to never go to his room again. **(SIC)**»

[4] Le 11 mars 2002, le plaignant écrit à nouveau au Conseil. Il lui expédie cette fois plusieurs documents qui, outre une plainte adressée au Commissaire à la déontologie policière et qui est datée du 12 mars 2002, concernent des incidents survenus en Ontario, bien avant ceux décrits dans sa plainte du 22 février 2002.

[5] Invoquant être l'objet d'un complot, le plaignant y indique que tous les faits qui y sont relatés ont un lien étroit entre eux et il requiert du Conseil qu'il fasse la lumière sur le tout. À cet égard, il écrit, entre autres :

1. «My complaint dated February 22, 2002 filed with your office ("Complaint") was drafted with rush, due to harassments (sic) of the court securities of Palais de Justice. It has errors, and it is not contains all facts. However, the Complaint contains enough facts to open a file. This letter contains additional facts that shall be investigated by the Conseil too.

2. The Complaint is charged (...) JP for *Conspiracy* with the Attorney General of Ontario, the (...) Police 20 Station ("Police") and the Securities working in (...) ("Securities"). The charge of *Conspiracy* against a member of the *Quebec Judiciary Systems* is very serious charge, however the Conseil; "*not to punish a part that stands out by conduct that is deemed unacceptable but rather to preserve the integrity of the whole*" – Ruffo v. Conseil de la magistrature et al 1995

3. In addition, the most important point raised in my complaint, is the issue of the *Interference of the Ontario's Authorities with the Quebec Administration of Justice*, particularly improper interferences *with the Quebec judiciary System*. No one is allowed to interfere with the fundament of justice, independence, and impartiality of the judiciary system, particularly, with intent to mislead, and obstruct the *Administrators of Justice* and bring the *Administration of Justice* into disrepute in the eyes of public; for which whole integrity of impartiality may harmed.

4. It is respectfully submitted that the Conseil is required to have proper tests in all *surrounding facts*. It is important to take note that the *surrounding facts* in this Complaint against a *judge* to be classified on normal process of misconduct. The Complaint indicates that *surrounding facts* had important roles. I classified the *surrounding facts* under the following categories, plus addition facts against (...) JP, and an argument to connect the facts in accordance to the motives and objects of conspiracy:

- A. The Motives, and the Historical Procedures against The Ontario and Canada Governments
- B. The Complaint against the Securities of (...) Centre; and the Similarity Issue
- C. The Complaints against the Toronto Police, Attorney General of Ontario, & Similarity Issue
- D. The Complaint against (...) Police, As prove of Conspiracy against (...) JP
- E. The Complaint against the servants of the Quebec Ministry of Justice, at Palais de Justice
- F. Additional Facts against Conspiracy of (...) JP (sic)».

[6] Au paragraphe "D" de cette lettre, intitulé "The Complaint against (...) Police, As prove of Conspiracy against (...) JP", le plaignant ajoute :

«SCHEDULE "A" is my complaint against B. Police that I am relying on it for my complaint against (...) JP. I wish that all facts be applied in finding of *conspiracy* charges against (...) JP, without malicious conduct of police, malice of (...) JP could not be found simply. IF the (...) Police has intercepted me, everywhere in the City of (...) and provided me, several times with false information, which means had intend to "Obstruct Me" then it could be interpreted that the "(...) *Police*" had made initial conduct with me in (...) JP first meetings with me. PLEASE see Additional Facts Against (...) JP more particulars (sic)».

[7] Enfin, au paragraphe "F", " Additional Facts against Conspiracy of (...) JP", le plaignant relate certains événements qui seraient survenus eux, le 25 février 2002. Il prétend que ces derniers impliqueraient également le juge, en ces termes :

«14. At about 3:05 PM, as soon as, I stepped in 12 floor I was shocked and frightened; because I have seen the Secretary was standing with a fat security, much away from her office. She, immediately, indicated me with he finger to the fat security, and he wrote something in his notebook. I was scared. I stopped far way from them. I did not know I should move forward or rerun to elevator. I asked from the Secretary that: "Can I walk in the hallway, or is there any charges against me?"The Secretary said: "No! You can come in." I asked from security that why he was harassing me everywhere [as in the morning he harassment me in first floor, in front of the Superior Court's counter, I believe its number was 1-154]. The fat security told me: "It is my duty to be here!" However, before February 22, 2002 that I filed complaint against (...) JP *I have not seen any security* in 12 floor. However, as soon as I filed complaint with your office, now *everywhere in the Palais de Justice the securities were harassing me*. I am requesting from the Conseil to provide immunity for people filing complaint against judges and me.

*Why we should be harassed for using the provision of law that allows us to file a complaint?*

15. At the Justice of Peace waiting room, I saw two under covered police watching me. [I have seen they were *armed* on when (...) JP misconduct himself with process and me. On February 20, 21 the civilian *armed* police constables, intentionally, have pushed their dresses up and showed me their Guns me, and spoken with (...) JP before me. It is important to note that (...) JP asked me: "*Do You Have Criminal Record?*" "*What is your file number at Supreme Court of Canada*"] The under covered police have spoken with JP, before me.»

[8] Le 2 avril 2002, s'adressant à nouveau au Conseil, le plaignant écrit :

«In addition to all charges that I have ask against (...) JP, herein I am charging (...) under Section 9 of the *Criminal Code of Canada* for the "*Contempt in the Face of Court*" for denying my juridical personality and obstructing my access to the *Quebec Criminal Judiciary System* to charge the (...) Securities Offenders for the crimes of Robbery, Conspiracy and Aggravated Assault.

My researches proven that whoever obstruct, delay or cause that the criminal proceeding and process be delayed, or obstruct a witness, victim, lawyer, to have access to the criminal proceeding is in contempt of the court process and must

be found guilty of the "*Contempt in the Face of Court*" for which I am requesting from the members of this Honorable Council to support my charge, or lay their own charges of contempt against (...) JP and his Female Secretary who called securities against me and threaten me on February 25, 2002, as I have given particular on my complaint dated March 11, 2002, paragraphs 13 to 17.

Furthermore, Section 15 of the *Canadian Charter of Rights and Freedoms*, is supporting my charge of the "*Contempt in the Face of Court*" that clearly instructed; "*Every individual is equal before and under the law and has the right to the equal protection and benefits of the law without discrimination*" and Section 1, of the *Quebec Charter of human Rights and Freedoms* that clearly instructed : "*Every human being has a right to life, and to personal security, inviolability and freedom. He also possesses juridical personality.*"

Please be advised that I am entitled to receive a copy of all documents that parties may file with the council in respect to the issue, I be able to file the *Reply* material. IF the council considers any document that my name appears on it without my notice, it will prejudice my right (sic)».

[9] Sur réception de tous ces documents, le Conseil a recueilli les explications du juge. Ce dernier précise que le 19 février 2002, il a suivi la procédure écrite de traitement des plaintes privées émanant de la direction des services de justice de la Région de (...), en vigueur depuis le 7 octobre 1999.

[10] Malgré l'article 3 de cette procédure, le plaignant se serait présenté en fin de journée le 19 février 2002 pour le rencontrer, mais sans rendez-vous préalable. Un rendez-vous a alors été fixé pour le lendemain. Le juge reconnaît qu'il est fort possible qu'il n'ait pu recevoir le plaignant le 20 février à l'heure convenue compte tenu que d'autres personnes attendaient déjà avant lui pour le voir.

[11] Lorsque le plaignant est entré dans la pièce, le juge (...) aurait constaté qu'il n'avait pas en mains le formulaire correspondant, selon lui, à la plainte qu'il désirait déposer. Au surplus, le formulaire en question n'était pas dûment complété. Il y manquait en effet les noms, prénoms et adresses exactes des personnes contre lesquelles le plaignant désirait déposer une plainte.

[12] Le juge (...) aurait alors demandé au plaignant d'obtenir toutes les informations nécessaires et de revenir une fois le bon formulaire dûment complété. Le plaignant se serait alors impatienté, indiquant être pressé de retourner à Toronto. Il aurait également mentionné au juge (...) qu'il entreprendrait une requête en mandamus contre lui s'il refusait de recevoir sa plainte.

[13] C'est à ce moment que le juge aurait demandé au plaignant s'il avait un dossier criminel et quelle en était la teneur. Le plaignant lui aurait alors confirmé qu'il en avait un, précisant qu'il s'agissait d'une condamnation pour voies de faits à l'endroit d'agents de sécurité du Centre (...) de Toronto, contre laquelle il espérait obtenir la permission d'en appeler à la Cour suprême du Canada. Cette information est corroborée par certains des documents expédiés par le plaignant au Conseil le 11 mars 2002.

[14] Au cours de la rencontre du 20 février 2002, le plaignant aurait mentionné au juge qu'il s'appêtait à déposer une plainte auprès de la Commission des droits de la personne concernant les incidents survenus la veille.

[15] Constatant que le plaignant semblait avoir eu dans le passé des démêlés avec la justice; considérant que le ton montait, que le plaignant semblait de plus en plus nerveux et qu'il avait également posé un geste qui l'aurait fait craindre pour sa sécurité personnelle, le juge aurait alors sommé le plaignant de quitter la salle où ils se trouvaient tout fin seuls.

[16] Le Conseil de la magistrature ne dispose d'aucune compétence pour mener une enquête sur les faits reprochés par le plaignant aux agents de sécurité du Centre (...), ou aux policiers du service de police de (...) auxquels ce dernier fait référence dans les divers documents qu'il a expédiés. Seuls l'attitude et le comportement du juge, lors de leurs rencontres des 19 et 20 février 2002, peuvent être examinés par le Conseil, et ce, uniquement en regard du Code de déontologie de la magistrature (R.R.Q., T-16, r4.1).

[17] Le juge (...) a suivi la procédure de traitement des plaintes privées émanant de la direction des services judiciaires pénaux et des tribunaux spécialisés et de la direction des services de justice de la région (...), en exigeant du plaignant qu'il prenne rendez-vous avant d'être reçu et qu'il complète lui-même le formulaire de plainte privée en y indiquant de manière précise tous les renseignements pertinents concernant les personnes contre lesquelles il entendait déposer une plainte.

[18] Avant de recevoir et d'accepter d'acheminer une dénonciation privée aux autorités compétentes, le juge de paix a l'obligation de s'enquérir plus avant des faits reprochés par un plaignant.

[19] La pièce où le juge a reçu le plaignant n'est pas dotée d'équipements d'enregistrement des propos échangés entre eux. Le Conseil n'est donc pas en mesure d'apprécier le ton ou les termes utilisés par le juge (...), le plaignant et ce dernier étant seuls dans la pièce lors de ces échanges qui auraient déplu au plaignant.

[20] S'exprimer avec fermeté ou utiliser un ton autoritaire ne constitue pas, en soi, un comportement dénotant une absence de réserve, de sérénité, d'intégrité ou d'impartialité de la part du juge.

[21] POUR CES MOTIFS, le Conseil de la magistrature déclare que la plainte n'est pas fondée.