

CONSEIL DE LA MAGISTRATURE DU QUÉBEC

CANADA
PROVINCE DE QUÉBEC

N° : 2018-CMQC-035

DATE : Le 3 octobre 2018

PLAINTÉ DE :

Madame A
Madame B

À L'ÉGARD DE :

Madame la juge X, Cour du Québec, Chambre de la jeunesse

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

[1] Le 15 juin 2018, les plaignantes portent plainte au Conseil de la magistrature à l'égard de madame la juge X qui entend les [...], [...] et [...] 2018 des observations sur la peine dans une affaire d'homicide involontaire coupable à la chambre de la Jeunesse de la Cour du Québec.

[2] L'enjeu est alors de déterminer si l'adolescent sera assujéti à une peine applicable aux adultes en vertu de l'article 72 de la *Loi sur le système de justice pénal pour les adolescents*.

[3] Les plaignantes sont des membres de la famille de la personne décédée. L'une d'elles est la mère de la victime.

[4] La plainte reproche les faits suivants :

« Within the first hour of being in the courtroom we witnessed Judge X's deplorable behaviour as she rolled her eyes several times at the Prosecutor, you

cannot begin to imagine the inappropriate conduct that we have had to witness during the 3 days.

Here is a list of the inappropriate manners in which Judge X conducted herself:

1. She rolled her eyes at the Prosecutor on several occasions, not only did she roll her eyes at the Prosecutor, but she sighed loud enough for everyone in the courtroom to hear and to show her annoyance and impatience while making several different facial expressions while the Prosecutor was talking and questioning witnesses.

2. Judge X interrupted and shushed the Prosecutor on numerous occasions. The Prosecutor was asking a witness a question and the judge interrupted and **led** the witness to his answer by saying to the witness: "you said ... earlier isn't that your answer?", to which the witness replied: "yes".

3. The judge interrupted the Prosecutor and asked her: "Are you done yet?" during questioning of a witness. On several occasions, the judge became impatient for absolutely no reason.

4. The judge threw a temper tantrum. The prosecutor had a notepad and pencil in her hand in order to make notes while questioning witnesses. In one particular situation, the judge interrupted the prosecutor with a question and whilst the Prosecutor was trying to explain her reason for the question she had her pencil in her hand, at that moment the judge flew off the handle and flipped out on the Prosecutor and yelled in the courtroom: "Don't you dare point your finger at me!!!!!" The Prosecutor apologized immediately and explained that was not what she was doing. The judge threw another tantrum and got up and was about to walk out of court and before she did, she said something of the sort: "I'll be back in 15 minutes." Everyone in the courtroom was in shock and was in disgust regarding Judge X's behavior. We have never witnessed anything like this in our lives. There was no reason for this behaviour, we witnessed for ourselves that the Prosecution never pointed at the judge and never disrespected Judge X in any way.

5. During the day of closing arguments the judge kept interrupting the Prosecutor asking her how long was the Prosecutor going to take because she was taking too long. Judge X interrupted the Prosecutor several times to ask her those types of questions and to make those types of unprofessional statements. The judge expressed in a very unprofessional and ill-mannered way to the prosecutor that she was going too fast and that if she wanted her to be able to take notes to review what she had said that she had better slow down. This was a shock to everyone in the court room as the prosecutor was speaking at a proper pace and was very organized in her arguments. Ironically, the defense spoke very fast and his arguments were all over the place from one point to the next and the judge never interrupted nor ever disrespected the defense at any time. It was blatantly obvious that the judge showed favoritism towards the defense. Judge X towards the end was actually seeking the

defense's opinion and advice. We as the majority of the individuals in the courtroom were just floored by this action. »

[5] Puis, de façon générale, les plaignantes soulèvent le manque de respect de la juge envers la procureure de la poursuite. Elles ajoutent que la juge était biaisée.

[6] Des éléments de preuve que la procureure de la poursuite cherche à présenter sont déclarés inadmissibles par la juge. Cela se fait dans le calme. La juge ne démontre, à aucun moment, de l'impatience.

[7] Une des questions en litige porte sur la fiabilité d'un rapport prédécisionnel que la procureure cherche à faire mettre de côté.

[8] À cet égard, un éducateur de suivi de l'adolescent est interrogé.

[9] Lors de l'interrogatoire, la juge, comme le rapporte la plainte, avertit la procureure de la poursuite de ne pas la pointer du doigt, ceci étant dit sur un ton délicat.

[10] À la suite de cet incident, la juge décide de prendre une pause de 15 minutes, et ce, sans s'emporter.

[11] Malgré la longueur des questions et la répétition de celles-ci par la procureure de la poursuite, la juge est d'une patience exemplaire. La juge indique même à la procureure de la poursuite, qui cherche un détail, de prendre tout son temps, le tout dit sur un ton qui n'est aucunement sarcastique.

[12] Jamais l'écoute de l'enregistrement des débats ne montre, de sa part, quelque colère que ce soit.

[13] La juge n'intervient aucunement durant les témoignages de parents de la victime.

[14] Elle intervient peu pendant le reste de la preuve, mais toujours sur un ton calme et posé.

[15] La juge intervient à quelques occasions lors des observations de la procureure de la poursuite, mais uniquement pour faire ralentir celle-ci qui fait référence à plusieurs éléments de la preuve documentaire et testimoniale.

[16] La juge a un ton neutre et respectueux tout au long de l'audition sur la détermination de la peine. Aucune faute déontologique n'est détectée.

POUR CES MOTIFS, le Conseil de la magistrature constate que la plainte n'est pas fondée et la rejette.