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## Ontario police officer found not guilty of sex assault in Peterborough case

The judge, who said the officer's testimony was 'dishonest,' ruled he couldn't determine 'the actual truth' in the Peterborough, Ont., case.



Const. Christopher Robertson, left, leaves court with his lawyer Joseph Markson in Peterborough, Ont., Wednesday after being found not guilty on a charge of sexual assault. (FRED THORNHILL / THE CANADIAN PRESS)

By **DIANA MEHTA** The Canadian Press  
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PETERBOROUGH, ONT.—An Ontario police officer was found not guilty of sexual assault Wednesday after a judge concluded it was impossible to determine “the actual truth” in the case where a woman claimed she had been raped.

Const. Christopher Robertson had pleaded not guilty to sexually assaulting the woman during an alleged incident that took place in Peterborough, Ont., January 2015, while he was off-duty. The charge was laid after an investigation by Ontario's police watchdog.

The woman at the centre of the case, who cannot be identified, testified that Robertson pinned her down on his bed during sexual intercourse and wouldn't stop when she begged him to.

Robertson, however, testified he only had consensual sex with the woman and didn't sexually assault anyone.

The judge who heard the trial said he was faced with two different versions of what occurred and had to determine whether the Crown had proven the case beyond a reasonable doubt.

“Although it is certainly possible, perhaps even probable, that Mr. Robertson continued to engage in sexual activity with (the woman) after she withdrew her consent, and that he did so in a violent manner she described, leaving her with injuries seen, I cannot be sure this is so,” said Justice Stuart Konyer.

“At the end of the day it is impossible for me to determine where the actual truth lies in this case.”

The woman, who was 40 at the time, testified that she met Robertson, 55, at a local nightclub during a girls' night out. She recalled having eight to nine rye-and-Cokes over the course of that night, and said she couldn't remember much about what happened.



The trial heard that the pair danced closely and kissed repeatedly. At the end of the night, they ended up getting into the same cab, which took them to Robertson's home.

The woman testified she remembered sitting in Robertson's living room before he picked her up and walked into his bedroom. She said the next memory she had was of being pinned on her stomach, being in pain and not being able to move.

The woman testified she repeatedly told Robertson to stop having sex with her but he would not.

Robertson, however, said the woman was the one who decided to come into his home that night and jumped into his arms in his living room before they headed for his bedroom.

He said the woman did not ask him to stop once they started having sex, and he testified he did not pin her down.

Konyer took issue with both Robertson's and the woman's testimony.

"I have concluded that Mr. Robertson was deliberately dishonest in much of his testimony," he said. "However the testimony of (the woman) was also either dishonest or unreliable."

Konyer found that the veteran police officer recalled the exact details of his alcohol consumption and sexual activity very clearly but was less precise on other points, such as saying he left the nightclub alone when surveillance video showed that wasn't the case.

"What is troubling is the extent to which Mr. Robertson sought to mischaracterize his interest," Konyer said.

The woman's evidence was also problematic because of the seemingly large gaps in her memory, he said.

While Konyer did not draw any negative inference from the woman's alcohol consumption and rejected a defence theory that she fabricated her allegations because she was in a relationship with another man at the time, he was "deeply troubled" by her testimony that she didn't remember any sexual activity apart from the alleged assault.

"I am unsure whether (the woman) was being deliberately dishonest about memory loss or whether her memory is simply unreliable," he said. "It would, in my view, be unsafe to base a criminal conviction on a brief selection of memories presented by (the woman)."

Konyer also said injuries observed on the woman in the days after the alleged incident didn't help him determine if she had withdrawn consent during sexual activity with Robertson.

The trial heard that the woman went to a sexual assault clinic two days after the incident where a nurse who examined her found abrasions on the woman's knees, bruises on her upper back, a red scratch below her neck, tenderness over her kidney areas and a small red abrasion deep inside her vagina.