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Officer acquitted of making threat



By Sue Yanagisawa, Kingston Whig-Standard
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A Kingston Police officer, charged last November by South Frontenac OPP with making a threat against another man while off duty, has been acquitted of the charge.

Justice Robert N. Fournier heard the case of Const. Andrew D. Wilby last week in Kingston's Ontario Court of Justice and remarked in his reasons for judgment: "Quite frankly, nowhere am I certain there's an outright threat. Nowhere am I sure there's a conditional threat."

The charges arose in the context of a dispute between Wilby, 43, and the owner of a renovation business he'd hired to do some work on his home.

The police officer was unhappy with the work and Justice Fournier said, "the watershed moment" was when Wilby told his wife, "we're going to get rid of these guys, we're going to sue them."

He noted that the threat complaint was made to the OPP after the business owner learned that Wilby was firing him and had already made a complaint of his own about the renovation business to the Electrical Safety Authority.

The judge found that Wilby did call the man "a con artist" and say that he hated him, but "there's nothing in the Criminal Code that says you can't hate somebody -- unless it's racial," Justice Fournier observed.

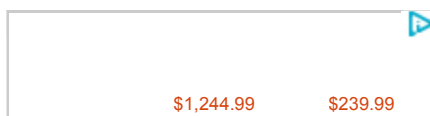
He also noted that a key witness, a man who worked for the complainant, testified that the basis of the threat allegation was Wilby's alleged statement that he wanted to punch the man in the face, "but I won't because I'm a police officer."

Justice Fournier said, "I have to ask myself: Did he intend to intimidate? Did he intend [the witness] to communicate it to his principle?"

In the end, however, the judge said if he accepted that was the substance of what Wilby said, it was the opposite of a threat because "he said he's not going to do it."

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