

From: Martin Minuk
To: Don (JUS) Slough
Date: 9/14/07 7:48 am
Subject: Don

CC: Brian Kaplan
Don

Good Morning

I happened to read the Free Press editorial early this morning and noted again the erroneous reporting of the paper.

I had prepared text for the last appearance and I am copying here what i said for you to read - I hardly think this fails to tell or explain !

The court in my earlier submission heard that after a careful review of the investigative file presented to the Crown for prosecution by the East St. Paul Police my concerns were such that I sought consent from counsel for the accused and the court to adjourn the preliminary inquiry so that the investigation file presented to the Crown could be referred to the RCMP for independent investigation including therein the actions of those at the scene whose investigative activities required review.

Whatever private investigation was undertaken by the Municipality of East St. Paul into the operation of its police force, I am told conducted by an individual named Tramley, is not the investigation and review that I requested be conducted.

In the end, after a complete and intensive RCMP review of the scene investigation and the subsequent related investigative activity, it was clear to the Crown in the language of Boucher and Gardiner that the only available legal proof related to the offence of dangerous driving cause death - the very charge which the accused admitted. Legal proof which passed the threshold of " a reasonable likelihood of conviction" but not necessarily the trial threshold of proof beyond a "reasonable doubt".

In short no evidence capable of meeting the required standard for prosecutions "a reasonable likelihood of conviction" and all the moreso no evidence capable of resisting a Gardiner challenge was available to the Crown in respect of the offences of impaired driving and refusing the breathalyzer. If such evidence may have been available none was demanded or obtained at the scene in compliance with the requirements set out by the Supreme Court of Canada in R. v. Woods 2005 SCC 42 recently applied by Justice Clearwater in the case of R. v. Bowler 2007 MBQB 200.

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