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CASE SUMMARY: ALBERTA COURT HELD IT HAD NO JURISDICTION TO REVIEW THE LAW ENFORCEMENT REVIEW BOARD'S DECISION TO DISMISS A CONSTABLE

Administrative law – Decisions of administrative tribunals – Police Review Board; Police
– Professional governance and discipline – Penalties and suspensions; Judicial review –
Appeal process – Compliance with legislation – Jurisdiction

Cst. A. v. Edmonton (City) Police Service

The Applicant, Constable A., was unsuccessful in seeking judicial review of the
Respondent Law Enforcement Police Board's decision regarding her dismissal.

[2015] A.J. No. 1297

2015 ABQB 697

Alberta Court of Queen's Bench

November 30, 2015

D.A. Sulyma J.

The Applicant, Constable A., was dismissed from her employment after proceeding
through the legislated process for police discipline in Alberta.

The Police Act sets out the roles of the Chief of Police, the presiding officer, the Law
Enforcement Review Board ("LERB") and the Court of Appeal. The *Police Act* allows for
an officer to appeal decisions of the LERB to the Court of Appeal, with leave, regarding
questions of law. In this case, Constable A. took issue with the LERB's review of the
reasonableness of the presiding officer's penalty decision.

The Applicant applied for judicial review of her dismissal to the Alberta Court of Queen's
Bench. The Applicant argued that there is a role for this Court in spite of the existence of
the statutory appeal process set out in the *Police Act*. All counsel in this matter agreed
that the absence of a statutory provision relating to the role of the Court of Queen's
Bench did not preclude a role for judicial review. The Court reviewed other cases
wherein the Alberta courts made findings relevant to this issue of residual discretion for
judicial review.

The Court held that the issue was whether the legislation allowed for the Court of
Queen's Bench to review factual issues and issues of mixed law and fact. The Court
held that the legislation occupies the whole field of rights regarding the discipline
process of an individual peace officer, which culminates in a direct appeal to the Court
of Appeal. The Court held it had no jurisdiction to review the decision of the LERB. In the
alternative, the Court declined to exercise its discretion in the circumstances of the case.

The Applicant's application for judicial review was dismissed.

This case was digested by [Scott J. Marcinkow](#) of Harper Grey LLP. If you would like to discuss this case further, please feel free to contact him directly at smarcinkow@harpergrey.com or review his biography at <http://www.harpergrey.com>.