

Windsor doctor files \$14.2-M lawsuit over alleged police assault

By Sarah Sacheli, Postmedia News October 27, 2011



Windsor Police Det. David Van Buskirk arrives Thursday, Oct. 20, 2011, at the Ontario Court of Justice in Windsor, Ont. where he faces assault and public mischief charges. Photograph by: Dan Janisse, The Windsor Star

WINDSOR, Ont. - A Windsor cop pounded an innocent man senseless, then he and other officers lied to cover up the crime, according to a \$14.2-million lawsuit filed by a doctor beaten up by Det. David Van Buskirk.

“These facts demonstrate the pervasive and malicious operation of the Windsor Police culture,” says the statement of claim filed in Superior Court by Dr. Tyceer Abouhassan.

The statement of claim, which has yet to be tested in court, paints a picture of what allegedly transpired on April 22, 2010, outside the Jackson Park Medical Centre when Abouhassan suffered a concussion, a broken nose, bruised ribs and a detached retina. The statement of claim's version of events is backed by eyewitnesses and security video, according to the document.

It goes on to detail actions by individual police officers who allegedly conspired to protect one of their own by pursuing trumped-up charges against an innocent man.

According to the lawsuit, Abouhassan was minding his own business, jogging from the train station to the medical centre after arriving from London, Ont., where he was completing his endocrinology fellowship at St. Joseph's hospital.

He had put his backpack on a windowsill and was rummaging through it for his cellphone when Van Buskirk came up behind him and accused him of harassing a girl in the park. When Abouhassan said he hadn't harassed anyone, Van Buskirk grabbed him by the neck, pinned him against the building and began punching him in the face and head, according to the lawsuit.

Van Buskirk continued to beat the doctor even after Abouhassan had fallen to the ground unconscious, the lawsuit alleges.

According to the lawsuit, Van Buskirk's daughter had been at Parkside Tennis Club for a lesson when a man, whose generic description could have matched Abouhassan, began speaking to her. The man was asked by employees to leave, but he was seen later approaching the Van Buskirk vehicle when Van Buskirk's wife arrived at the tennis club to pick up their daughter.

The daughter called her dad who "took it upon himself" to go to the tennis club. En route, Van Buskirk spotted Abouhassan jogging and followed him to the medical centre.

After the beating, Van Buskirk called his wife, according to the lawsuit. She came to the parking lot and told Van Buskirk he had the wrong man.

Van Buskirk arrested Abouhassan, charging him with assaulting police. Later, he filed a report depicting Abouhassan as the aggressor. Van Buskirk said that after identifying himself as a police officer, Abouhassan grabbed his shirt and punched him in the face.

"In a general occurrence report prepared by Van Buskirk to support a charge of assault police against Dr. Abouhassan, he falsely claimed that Dr. Abouhassan had initially struck him," the suit says. "Unbeknownst to Van Buskirk, there was a video that captured the altercation from beginning to end. There were also civilian eyewitnesses who witnessed the altercation."

The suit names other officers who saw the video but went along with Van Buskirk's version of events.

Det. Kent McMillan is identified as the officer charged with investigating the incident. "Despite having video and eyewitness evidence to the contrary, McMillan created an occurrence report alleging that Dr. Abouhassan had assaulted Van Buskirk in order to aid Van Buskirk's coverup," the lawsuit alleges.

Sgt. Al Pizzicardi is identified as the officer who guarded Abouhassan in the hospital, relieving a junior officer who had been charged with the task. Staff Sgt. Mike LaPorte attended the hospital and served Abouhassan with a summons to appear in court, a document the suit refers to as a "promise to appear." Insp. Randy Gould was in charge of the Criminal Investigations Branch which oversaw the investigation against Abouhassan.

All are said to be part of the "conspiracy" to frame Abouhassan. The suit says police officers continued the "malicious prosecution" of Abouhassan to have a bargaining chip in any complaint against Van Buskirk.

The suit also names two police staff sergeants, Paul Bridgeman and Patrick Kane. Both currently face Police Act charges in relation to the case. According to the doctor, the officers approached Abouhassan's lawyer on two dates to coerce him into dropping his complaint against Van Buskirk. They attempted to broker a deal in which police would drop the charges against the doctor if he co-operated with the police coverup, the suit alleges.

The lawsuit notes that police waited nearly two weeks to officially begin court proceedings against Abouhassan, bringing the charges before a justice of the peace only "after he refused to accept the offers."

In all, the suit names 10 police officers, including Chief Gary Smith. It says all committed "the torts of malicious prosecution, misfeasance in public office, false imprisonment and negligent investigation."

Van Buskirk called for an ambulance to take Abouhassan to hospital. Once there, approximately 15 police officers in uniform stood outside Abouhassan's emergency room, the suit says.

The number of officers at the hospital was one of Abouhassan's complaints to the province's Office of the Independent Police Review Director.

The charges against Abouhassan were stayed by the Crown following an investigation by the province's police watchdog. Van Buskirk was charged criminally with assault causing bodily harm and public mischief. After firing his lawyer and winning several adjournments in his case, Van Buskirk is scheduled to stand trial in June 2012.

The lawsuit alludes to further Police Act charges against him and other officers. It says OIPRD investigators concluded Van Buskirk committed the offences of discreditable conduct, excessive use of force, unlawful arrest and deceit. McMillan, in backing up Van Buskirk with his allegedly bogus report, committed the offence of discreditable conduct and deceit, the lawsuit says the OIPRD concluded.

The parties named in the lawsuit have yet to file statements of defence with the court. Contacted Wednesday, the chief of police declined to comment on behalf of himself or his officers.

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