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BB/sr  
1026-2

Court File No. T-1474-89

FEDERAL COURT OF ONTARIO

TRIAL DIVISION

1  
2 B E T W E E N :

3  
4 DERRICK COLIN DWYER,

5  
6 Plaintiff,

7 - and -

8  
9 HER MAJESTY THE QUEEN  
and THE MINISTER OF DEFENCE,

10  
11 Defendants.

12 -----  
13 This is the Examination for Discovery of BRIGADIER  
14 GENERAL DANIEL EDWARD MUNRO, on behalf of the Defendants  
15 herein, taken at the Department of Justice, Suite 3300, 2  
16 First Canadian Place, Toronto, Ontario, on the 26th day of  
17 October, 1990, commencing at 10:40 a.m.

18  
19 C O U N S E L :

20 R. J. HUGHES, ESQ., -- For the Plaintiff,

21 MS. D. McALLISTER, )  
22 MS. B. A. McISAAC, Q.C., ) -- For the Defendants.

23  
24 ALSO PRESENT: LIEUTENANT COLONEL R. A. McDONALD,  
25 Office of the Judge Advocate General

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Brig. Gen. D.E. Munro - 2

1 BRIGADIER GENERAL DANIEL EDWARD MUNRO, Sworn

2  
3 BY MR. HUGHES:

4 1. Q. General Munro, could you  
5 explain what the Canadian Forces policy is with  
6 regard to medical confidentiality of members of the  
7 Forces that is given to personnel who are also  
8 members of Canadian Forces?

9 A. I don't have anything --  
10 anything I would say would be sort of from memory on  
11 that. I don't think that would be good enough.

12 2. Q. Is there a written policy?

13 A. I'm certain there is, yes.

14 MS. McISAAC: Can we undertake to  
15 provide that to you?

16 3. MR. HUGHES: Yes.

17  
18 BY MR. HUGHES:

19 4. Q. When was it the Canadian  
20 Forces' authorities first had any knowledge that  
21 Corporal Dwyer was gay, to your understanding?

22 A. Although there were, I believe  
23 in some documentation, some suggestion some people  
24 had perhaps suspected it. The first indication, to  
25 my recollection, was May, '70 -- in May '87 at

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1 Commanding Officers that tell a Commanding Officer  
2 what he may do under those particular circumstances,  
3 or what he shall do with respect to classified  
4 material, for example.

5 28. Q. So, there may be such ---

6 A. There may be.

7 29. Q. --- instructions that exist.

8 30. MR. HUGHES: Could counsel undertake  
9 to ---

10 MS. McISAAC: More specifically,  
11 please? I'm sorry, I missed what was said.

12 31. MR. HUGHES: Could counsel undertake  
13 to use best efforts to locate any Canadian Forces  
14 guidelines to Commanding Officers for conducting an  
15 investigation of -- or restricting access for  
16 security clearance when there are suspicions of  
17 homosexuality?

18 THE DEPONENT: I should say that  
19 would -- whatever that order, would cover a lot more  
20 than homosexuality. It would be the Commanding  
21 Officer's assessment there may be a security risk  
22 here. It could be for any number of reasons of  
23 which homosexuality would only be one.

24  
25 BY MR. HUGHES:

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1 32. Q. Mm-hmm?

2 MS. McISAAC: We'll make that  
3 undertaking. What we will look for is any  
4 guidelines restricting access to classified  
5 documents when there is a concern over security  
6 issues. Put it that way. For any reason, including  
7 homosexuality.

8 33. MR. HUGHES: That covers my needs.  
9 Thank you.

10  
11 BY MR. HUGHES:

12 34. Q. Then following that suspension  
13 for approximately a week, Corporal Dwyer was then  
14 reinstated and performed essentially the same duties  
15 that he was performing prior to that?

16 A. I don't know. I do know that  
17 the Commanding Officer requested -- or temporarily  
18 denied his access to, but I don't know when, or if  
19 that was lifted, or he rescinded that restriction  
20 prior to some of the subsequent action that took  
21 place.

22 MS. McISAAC: I believe, Mr. Hughes,  
23 what happened is his security clearance access  
24 continued to be suspended, but isn't that the point  
25 in time when he moved to another job?

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1 posting was actually in the machinery before the  
2 Commanding Officer of 1 R.S.U. denied his access to  
3 information. So, it wasn't as a result of the  
4 investigation, no.

5 37. Q. Now, after this process was  
6 started, Corporal Dwyer filed a redress of  
7 grievance. Could you explain what the process is  
8 for resolving a grievance that is filed by a  
9 Canadian Forces member, and at what stage Mr.  
10 Dwyer's grievance process is at now?

11 MS. McISAAC: Perhaps what we could  
12 do, there's a QR and O which deals specifically with  
13 the redress agreement. It's 19.26 and 19.27, and we  
14 will undertake to provide those to you.

15 38. MR. HUGHES: Thank you.

16  
17 BY MR. HUGHES:

18 39. Q. And for the second part of my  
19 question regarding where Corporal Dwyer's particular  
20 grievance is in terms of this process right now.

21 MS. McISAAC: I believe it's past the  
22 ministerial level and forwarded to the Governor-in-  
23 Council.

24 40. MR. HUGHES: Thank you.

25

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1 anticipation of your question I had asked National  
2 Defence to provide me with actual numbers, and I can  
3 give those to you.

4 In 1987 there were 740  
5 corporals in the administrative clerk occupation.  
6 Corporal Dwyer was number 658 on the list -- down  
7 the list, if you will, and 196 were promoted.

8 In 1988 there were 722  
9 considered for promotion of corporals in the  
10 administrative clerk category. He was number 430,  
11 and 178 were promoted.

12 1989 there were 741 on the list  
13 evaluated, ranked, and he was number 355, and 166  
14 have been promoted. There may be, I understand, a  
15 few more promotions arising out of the '89 listing.  
16 I don't know how many.

17 And for 1990, 742 on the list.  
18 He is 395, and it is forecast that there will be  
19 about 199 promotions. As I understand it, the merit  
20 list is for the following years. When I gave you  
21 the '89 figures, the promotions actually occur in  
22 1990, as spaces become available.

23  
24 BY MR. HUGHES:

25 57. Q. Now, are there any guidelines

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1 that the S.I.U. have for the use of polygraphs? Any  
2 written guidelines?

3 A. I don't know.

4 58. Q. Could you undertake to ---

5 MS. McISAAC: I'll make an inquiry.

6 Depending on the nature of such guidelines. They  
7 may be the sort of thing for which we would be  
8 obliged to claim a privilege, in the sense if they  
9 have anything to do with how it is administered,  
10 presumably it would not be in the interests of  
11 anyone to have that file find its way into the  
12 public domain.

13 But I do undertake to make  
14 inquiries, and I'll take the balance of it under  
15 advisement and let you know what our position is.

16 59. MR. HUGHES: Okay.

17  
18 BY MR. HUGHES:

19 60. Q. In connection with this, are  
20 there any instructions given to S.I.U. personnel  
21 regarding asking of questions about the sexual  
22 orientation of other members of the Canadian Forces,  
23 other than the person being investigated?

24 A. I'm not aware that there are  
25 instructions. I would assume that in the course of

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1 the interview that if someone was asked, it could  
2 well be that they would ask, you know, "Who are your  
3 partners?", or, "Who do you know?", or, "Do you know  
4 that anyone else is?" I doubt if there's any  
5 prohibition against that kind of question.

6 61. Q. Again, are there any guidelines  
7 -- I would like to know if there are any guidelines  
8 as well making it mandatory, or, in fact, asking  
9 S.I.U. personnel to undertake those inquiries.

10 MS. McISAAC: I'm sorry?

11 62. MR. HUGHES: To inquire whether an  
12 individual who is under investigation for  
13 homosexuality, whether it is requested that S.I.U.  
14 ask for the names of other contacts -- sexual  
15 contacts that person has, or knowledge of other  
16 Canadian Forces members who are gay or lesbian.

17 THE DEPONENT: There are no such  
18 written guidelines that I'm aware of.

19 63. MR. HUGHES: And counsel could  
20 undertake to use best efforts to determine whether  
21 that is the case?

22 MS. McISAAC: You want this in  
23 respect to both questions -- guidelines regarding  
24 questions that may be asked, and guidelines  
25 reporting questions that ought to be asked? Is that



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1 the proper understanding?

2 64. MR. HUGHES: I think there's  
3 basically only one set of guidelines that would  
4 cover ---

5 MS. McISAAC: I'll undertake to use  
6 my best efforts to see what's available, and again,  
7 subject to any issues of privilege, I'll provide  
8 those to you.

9  
10 BY MR. HUGHES:

11 65. Q. General, to your knowledge has  
12 there been any reaction to Corporal Dwyer going  
13 public, in terms of having disclosed his  
14 homosexuality to the press, and having discussed his  
15 situation in the Canadian Forces with the press?

16 MS. McISAAC: By whom?

17  
18 BY MR. HUGHES:

19 66. Q. By authorities in the Canadian  
20 Forces, with regard -- who were dealing with  
21 Corporal Dwyer's case. Are there any reports that  
22 deal with that as a concern?

23 A. No. Not that I'm aware of.  
24 Once the fact -- on the opposite side of that, once  
25 Corporal Dwyer declared -- went public with the fact