Facing Charge over Conscience, Policeman Says

by Robert McLeod

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David Packer, the Metro Toronto Police constable who has been charged with insubordination for refusing to stand guard in front of the Morgentaler abortion clinic, would like to send a message to Police Chief Jack Marks, Attorney -General Ian Scott and Premier David Patterson.

“My message is I’m being charged basically because of my conscience,” the 35-year-old policeman told reporters. “Perhaps I need some help here”.

Constable Packer, who has been on the force for 10 years, appeared before a disciplinary hearing yesterday charged with disobeying a lawful order under the Police Act.

Constable Packer was charged last month for refusing to stand guard at the Harbour Street abortion clinic, operated by Dr. Henry Morgentaler. Each day, two officers are posted at the clinic to keep peace between the ant-abortion protesters, who demonstrate daily and the clinic’s staff and clients.

Constable Packer has said he could not stand guard at a place that was killing babies.

The penalty for insubordination ranges from reprimand to dismissal.

Constable Packer, a father of five, and his twenty-seven-year-old wife Anne, are members of two anti-abortion groups - the Right to Life Association and Campaign Life Toronto. Mrs. Packer often joins the other demonstrators in carrying protest placards in front of the Morgentaler clinic.

Your Task

You are the presiding judge over this difficult case. You must write a verdict that takes into account all the factors from this sheet. Further, your one-page verdict will include any punishments you see relevant if your finding is guilty of the said charge.

Your verdict should be structured with the headings in the following way:

* Facts
* Charge
* Charter Implications
* Verdict (guilty or not guilty)
* Ratio Decendi (the reasoning / rationale of the court)

You can refer to additional resources such as the criminal code and the Police Service Act.

Verdicts will be marked based on the following criteria:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Level I | Level II | Level III | Level IV |
| Is the verdict thorough and descriptive? | The verdict is not clear and descriptive | The verdict is somewhat clear and descriptive | The verdict is clear and descriptive | The verdict is very clear and descriptive |
| Does the verdict accurately and legitimately apply the *Charter*? | The verdict does not accurately and legitimately apply the *Charter* | The verdict accurately and legitimately applies the *Charter* in a limited fashion | The verdict accurately and legitimately applies the *Charter* well | The verdict accurately and legitimately applies the *Charter* excellently |
| Are the explanation of the outcome and punishment clear and valid? | The outcome and punishment are not clear and valid | The outcome and punishment are somewhat clear and valid | The outcome and punishment are clear and valid | The outcome and punishment are very clear and valid |