



**REPORT TO THE CANADIAN JUDICIAL COUNCIL OF THE
INQUIRY COMMITTEE APPOINTED UNDER SUBSECTION 63(3)
OF THE *JUDGES ACT* TO CONDUCT AN INVESTIGATION INTO
THE CONDUCT OF THE HONOURABLE ROBIN CAMP,
A JUSTICE OF THE FEDERAL COURT**

Issued 29 November 2016

OVERVIEW

[1] The Honourable Robin Camp (“Justice Camp” or the “Judge”) was appointed as a judge of the Federal Court in June 2015. Before his appointment to the Federal Court, he was a judge of the Provincial Court of Alberta, to which he was appointed in March 2012.

[2] While a judge of the Provincial Court, Justice Camp presided over the trial of *R. v. Wagar*¹ (the “*Wagar* Trial” or the “Trial”), in which the accused was charged with sexual assault. Justice Camp heard evidence and submissions on three separate days over a period of two months. A month after the Trial, Justice Camp delivered Reasons for Judgment acquitting the accused of sexual assault.² The acquittal was overturned by the Alberta Court of Appeal, having found that Justice Camp’s conduct of the Trial and his Reasons for Judgment disclosed errors of law.

[3] This inquiry was convened as a result of a complaint from the Minister of Justice and Solicitor General for Alberta to the Canadian Judicial Council (the “Council”) concerning the Judge’s conduct during the Trial, consisting of various comments he made and questions he asked during the Trial and comments in his Reasons for Judgment. The inquiry seeks to determine whether Justice Camp committed misconduct during the Trial and placed himself, by his conduct, in a position incompatible with the due execution of the office of judge contrary to ss. 65(2)(b) and (d) of the *Judges Act*,³ and if so, whether public confidence is sufficiently undermined to render Justice Camp incapable of executing the judicial office.

[4] It is not the focus of this inquiry to determine whether Justice Camp was right or wrong to acquit the accused, or to determine whether Justice Camp made legal errors in the conduct of the *Wagar* Trial. We are focused solely on whether Justice Camp’s conduct during the Trial was contrary to the *Judges Act*. Legal errors, without more, do not amount to misconduct.

[5] Complaints about statements made by judges in court in the course of a proceeding raise difficult issues. There is a tension between protecting judicial independence – which exists to safeguard the impartiality of our courts – and ensuring accountability for judicial misconduct. Judges must have considerable latitude to conduct proceedings, to comment on the evidence, to pose questions of witnesses and counsel, and sometimes to criticize the law.

¹ Docket: 130288731P1 (ABPC).

² 2015 ABCA 327 [*Wagar* ABCA].

³ R.S.C. 1985, c. J-1.

[6] On the record before the Committee, we find that throughout the Trial, Justice Camp made comments or asked questions evidencing an antipathy towards laws designed to protect vulnerable witnesses, promote equality, and bring integrity to sexual assault trials. We also find that the Judge relied on discredited myths and stereotypes about women and victim-blaming during the Trial and in his Reasons for Judgment.

[7] Accordingly, we find that Justice Camp committed misconduct and placed himself, by his conduct, in a position incompatible with the due execution of the office of judge within the meaning of ss. 65(2)(b) and (d) of the *Judges Act*.

[8] Although Justice Camp made significant efforts after complaints were made to the Council to reform the thinking and the attitudes which influenced his misguided approach to the Trial, in the particular circumstances of this inquiry, education – including social context education – cannot adequately repair the damage caused to public confidence through his conduct of the *Wagar* Trial.

[9] We accept that education, including social context education, is a valuable tool to help the judiciary improve and enhance its performance by keeping abreast of developments in the law and the values underlying those developments. We also recognize that judicial shortcomings can be ameliorated by a commitment to education and careful reflection. But where judicial misconduct is rooted in a profound failure to act with impartiality and to respect equality before the law, in a context laden with significant and widespread concern about the presence of bias and prejudice, the harm to public confidence is amplified. In these circumstances, the impact of an after-the-fact commitment to education and reform as an adequate remedial measure is significantly diminished.

[10] We conclude that Justice Camp's conduct in the *Wagar* Trial was so manifestly and profoundly destructive of the concept of the impartiality, integrity and independence of the judicial role that public confidence is sufficiently undermined to render the Judge incapable of executing the judicial office.

[11] Accordingly, the Inquiry Committee expresses the unanimous view that a recommendation by Council for Justice Camp's removal is warranted.

29 November 2016