

Date of Release: January 6, 1994

No. 2794/91
Victoria Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:)	
)	
DONALD JONES)	
)	REASONS FOR JUDGMENT
PLAINTIFF)	
)	OF THE HONOURABLE
AND:)	
)	MR. JUSTICE MEREDITH
THE CORPORATION OF THE)	
DISTRICT OF OAK BAY)	
)	
DEFENDANT)	

G.N.A. Botting	Counsel for the plaintiff
P. G. Altridge	Counsel for the defendant
Dates and Place of Hearing	January 4 and 5, 1994 Victoria, B. C.

The plaintiff's claim in damages for assault and for trespass must be dismissed.

Sergeant Campbell was told by Mrs. Skene that the plaintiff had, some months before, acted in an extraordinary manner, that she suspected that the plaintiff originated obscene phonecalls to her and her daughter and that she thought the plaintiff's mother, in the care of the plaintiff, might be in danger. Sergeant Campbell thought she might even be dead.

Sergeant Campbell noted that the drapes in the house owned by the mother and occupied by the mother and the plaintiff remained drawn throughout the day. He noted no activity about the house. With the assistance of his two brother officers he resolved to investigate to determine whether the mother was still alive and if so, in need of help.

The officers went to the property. They became even more suspicious because the plaintiff acted strangely and refused them access to the house. They entered over his objections. They determined that the mother was still alive and they left.

In order to gain entry, Sergeant Campbell put his foot in the door. I accept the plaintiff's testimony that Sergeant Campbell pushed his way in. He was followed by the other officers.

I very much doubt that in the process the plaintiff was assaulted. He certainly was not hurt. The fact that the officers were acting reasonably and in the course of their duty negatives any allegation of trespass. In any case, given that the mother owned the house any claim of trespass should surely be at her instance.

For these reasons, the claim of the plaintiff will be dismissed with costs.

"K. E. Meredith, J."

January 6, 1994

Victoria, British Columbia