

CANADA

This RCMP corporal has been on medical leave for 17 years. Could an end to his messy dispute with the force be near?

By **Douglas Quan** Vancouver Bureau

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Patrick Wasylynuk, an RCMP corporal in Alberta, is about to reach his 40th year with the force, but the looming milestone is tinged with uncertainty and bad blood.

For the past 17 years, he's been out of service sick and embroiled in a long, messy dispute with managers. First, they wanted to get rid of him, but he fought back. Now they're trying to compel him to return to work, telling him time is running out for him to "salvage" his career. He's fighting that, too.

All the while, the 66-year-old St. Albert resident has been getting full pay and benefits.

Depending on whom you ask, the unusual case represents either the RCMP's mistreatment of members on medical leave, a waste of taxpayer dollars or organizational dysfunction of the highest order.

Wasylynuk's fate remains unclear. Last week, a federal judge dismissed his request for an injunction that would restrain the RCMP from making him return to work. His lawyer, Richard Hajduk, said they are considering an appeal.

"The procedural issues in this matter are not moot issues to Cpl. Wasylynuk and entirely underscore his fight for justice in an RCMP system that operates by its own set of rules," he said.

"This case is about how a Canadian institution such as the RCMP, when allowed to rule by disregard of the procedural and substantive rights of its members, can destroy lives — by taking away careers and the dignity of those members who they deem dare challenge its ostensive authority, including by a member who is off duty and sick."

According to court records, Wasylynuk, who joined the force in 1980, went on medical leave in 2003 while working in the commercial crime division in Edmonton. Wasylynuk says he suffered years of bullying and harassment from supervising officers, which led to depression and post-traumatic stress disorder.

He alleges they publicly accused him of being incompetent; directed him to complete a difficult securities course in an unreasonably short period of time; failed to accommodate his reasonable educational and equipment requests; gave him conflicting directives; yelled at him for "no good reason;" failed to acknowledge his accomplishments; and prevented him from receiving a promised new vehicle.

In 2005, the RCMP classified Wasylynuk as "O6-Permanent," a designation that means someone is permanently unable to work for the RCMP in any capacity.

In 2010, the RCMP sent him a “notice of discharge.”

Wasylynyuk filed a grievance alleging the process the RCMP followed was procedurally unfair and in breach of RCMP legislation and policies, in part, because he had not been given access to key documents used to support his discharge.

After many delays, an adjudicator in early 2019 sided with Wasylynyuk and quashed the decision to discharge him on medical grounds.

Wasylynyuk, however, was not satisfied, in part, because the adjudicator did not rescind his medical classification as someone permanently unable to work. So, he filed what’s known as a Level II grievance that went to RCMP Commissioner Brenda Lucki.

In September 2019, Lucki issued her decision, affirming that Wasylynyuk’s right to procedural fairness had been breached and quashing the medical discharge. However, she found that other issues he had raised were moot and that “no live controversy remains.”

She noted the force had agreed to rescind his medical classification and undertake a new medical assessment.

Again, Wasylynyuk was not satisfied and filed an application in Federal Court for a judicial review of Lucki’s decision, arguing, in part, that she had failed to make key findings, including that his medical classification was part of an orchestrated campaign that was “predetermined” to end with him being booted from the RCMP.

Meanwhile, the force went from trying to get him out the door to trying to get him back to work — though not exactly with open arms.

Prior to and subsequent to Wasylynyuk’s decision to take the case to Federal Court, senior managers sent him multiple letters asking him to complete documents to obtain a security clearance and get a health assessment.

“It is of critical importance that you do co-operate,” said an August 2019 letter. “If your employment is to be salvaged and you are to return to work in a meaningful capacity, time is of the essence.”

Failure to comply, the letter noted, will result in administrative action, “which could include a stoppage of your pay and allowances up to your discharge from the RCMP.”

The RCMP followed up with a similar letter this past August.

In Wasylynyuk’s eyes, the requests constituted “continuing bullying and harassment,” his lawyer said.

They filed a motion this summer seeking an order to prohibit the force from taking steps to compel him to return to work until his judicial review application could be heard. After all he’d gone through, how could Wasylynyuk trust that his employer would treat him fairly if he returned to work, Hajduk said.

In an affidavit, Wasylynyuk wrote that he anticipated not complying with the return-to-work order would most certainly result in administrative action that “will stain my entire service and career with the RCMP.”

The RCMP asserted that Wasylynyuk had created a “self-made crisis” and argued it had the right to manage its employees and take steps to get its officer back on the job.

In a decision last week, federal Judge Andrew Little dismissed Wasylynyuk’s motion, saying, in part, the harm he expects to suffer is “avoidable.”

“It may well feel very unjust to comply, based on how he believes he has been treated by the force Yet it is something he can do to avoid the harm.”

It is unclear what actions the RCMP will take if Wasylynyuk chooses to continue ignoring the calls for him to return.

RCMP spokesperson Cpl. Caroline Duval said in an email Friday she could not comment on individual cases or matters before the courts. However, the force has built a comprehensive program to support members so they can return to duty following an illness or injury, she said.

“In circumstances where the member is unable to return to operational policing, the RCMP makes every effort to provide reasonable accommodation to the member that meets their medical limitations and restrictions. This may be in their own position or in an alternate position in the organization.”

Where accommodation cannot be found, the member may be dismissed as a last resort.

She noted that Canadian Human Rights Commission has previously declared that an employer’s “duty to accommodate has limits.”

“Sometimes accommodation is not possible because it would cause an organization undue hardship,” the commission’s website says.

Fabrice de Dongo, a spokesperson for the National Police Federation, the union representing RCMP members, said he couldn’t discuss this specific case, but did say: “We see (this case) as a clear example of an underfunded grievance and appeals system at the

RCMP that has languished over the years to the detriment of our members.”

He added: “This is actually one of many issues we plan to address in a new collective agreement, which is currently being negotiated.”

Sebastien Anderson, a Vancouver lawyer not connected to the case but who has represented hundreds of other RCMP members, says it is unusual for someone to be out sick for 17 years.

What is not unusual, he said, is the RCMP’s efforts to push out members who are sick.

Prior to 2014, RCMP regulations stipulated that the force could not discharge an employee if that employee had outstanding grievances, he said. That provision was removed in 2014.

“They only give lip service to the duty to accommodate,” he said. “They move for discharge as soon as they possibly can.”

According to a Global News report last year, there were 592 medical discharges in the RCMP between 2007-08 and 2013-14.

That climbed to 1,122 between 2014-15 and 2018-19.

Aaron Wudrick, federal director of the Canadian Taxpayers Federation, said he’s concerned how long Wasylynuk’s case has dragged on.

“Seventeen years is a long time to be paid for a job you’re not doing. For it to go on this long it’s sort of like everybody loses. The public loses because they’re paying and not getting anything in return for it. The force loses — they don’t have an officer on the street. And the individual loses — they’re looking for resolution of an issue,” he said.

“It mercifully is not that common, but the fact it can go on this long they may need to look at what is within the system to allow this to drag on?”

In his affidavit, Wasylynuk said he is looking forward to marking his 40th anniversary with the force on Dec. 9 and is entitled to receive a medal bar.

“This milestone achievement is very important to me and is a symbol not only of my loyalty and commitment to the RCMP but also as an affirmation of my self-identity as a lifelong Mountie with an exemplary record.”



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