

## Claire Hoy ? Neither justice nor its appearance

It was British Chief Justice Lord Gordon Hewart who uttered the now-famous phrase, "Not only must justice be done; it must also be seen to be done."

His 1924 ruling dealt with a notorious case involving judicial impartiality, but his words have come to stand for fairness and impartiality in all judicial matters.

Which brings me, alas, to the unfortunate case of former Durham swim coach Trent McNicol, a man whose experiences certainly don't match the standards for justice set by Justice Hewart.

McNicol was one of Canada's leading swim coaches. He had worked with more than 600 athletes over 16 years, including Jen Beckberger, who won both silver and bronze medals at the Pan American Games.

But a year ago, Durham police charged him with sexual assault and sexual exploitation following a complaint from a girl who alleged he had assaulted her when she was between 10 and 12 years old, beginning in 2005.

Last Friday, Crown prosecutor Lori Anne Turner dropped the charges against McNicol, explaining that after a thorough investigation "The Crown" is duty-bound to withdraw charges if there is no reasonable prospect of conviction.

As for McNicol, he says, "Although it's done and over with, I get to carry this with me for the rest of my life. I wouldn't wish this on my worst enemy."

Indeed. Google his name, for example, and you'll find stories about the sexual assault charges. Nobody is going to edit those out. That's a tough thing to live with, particularly if it's not true. And there, dear hearts, is the rub.

This sort of case has bugged me for many, many years. There is no easy answer. I just know that when accusations of this type are made, the accused, guilty or not, is in an untenable situation. If he's guilty, he deserves it. If not, he doesn't.

Upon receiving the complaint, officials from the Whitby Dolphins Swim Club, where he'd worked for six years, fired him. And Swim Canada, Swim Ontario and the Coaching Association of Canada and the Canadian Swimming Coaches and Teachers Association summarily revoked his credentials.

More. Despite a perfect record, with no previous allegations of any kind, he was held for 24 hours, granted bail, and ordered not to go near places where children under 16 might be, including parks and swimming pools. He even had to leave his family behind in Whitby and move to his native Brantford under the supervision of his father.

Worse still, Durham police issued a press release containing McNicol's picture and invited other "victims" to come forward and describe what their coach had done to them. Nobody came.

Naturally, the story was carried in all the television, radio and newspaper reports across the country, and beyond.

And now, having watched his career go down the toilet, he's a "free" man again.

But is he? Really?

He's 43, married, and the father of two young children. He's been stigmatized in the worst possible way. He's lost his career and is now renovating houses for a living.

And, typically, news of the Crown dropping the charges, hasn't been as widely disseminated or displayed as prominently as the original charges against him were.

"[N]ow I have to spend the next "who knows" six months, 20 years, rebuilding what I once had," he told the Toronto Star.

So what to do? Well, it's understandable when the charges were made that the swim club could not allow him to continue coaching until his guilt or innocence had been determined.

But did he have to be fired on the basis of an accusation which hadn't even been investigated? Did all those swim associations have to immediately revoke his credentials without so much as a how-de-do? A temporary suspension by all means, but instant punishment? I don't think so.

Whatever happened to the concept of innocent until proven guilty?

Even in announcing that charges are withdrawn, Crown spokesman Brendan Crawley refused detailed comment on the case.

Now we don't expect him to name the young girl who complained "although, if her complaint was unfounded, it would be nice to think there may be some consequences" but they could at least offer a little more than weasel words about being "duty-bound to withdraw charges"? blah, blah, blah.

Surely, given what this man suffered, the Crown "and police, who went on a public fishing expedition for "victims" owe him more than that. So do all those swimming officials.

McNicol may have been cleared, but he certainly hasn't received either justice or the appearance of justice. He's the victim here, and everybody involved seems to be just moving on as if his 19 years of flawless work never even happened.

Shame on them

