

Judge rules state police lieutenant waived rights

Katie Mulvaney

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PROVIDENCE – A Superior Court judge ruled this week that a Rhode Island State Police lieutenant who is suing the state police for wrongful termination agreed to waive his standing under the Law Enforcement Officers' Bill of Rights when he consented to a two-day suspension for having a relationship with a subordinate without notifying his superiors.

Presiding Justice Alice B. Gibney ruled in favor of the state police that Lt. Jason Lawton, a 24-year veteran of the force, had “consented to a two-day suspension and three-month probationary period in lieu of taking his chances before a LEOBOR hearing committee.”



Gibney

Lawton sued the state police and its former superintendent, Col. James Manni, over Lawton's firing in January after he failed to report for a supervisory shift last Dec. 25 due to heavy intoxication.

He accused the agency of wrongly firing him without allowing him the protections afforded him under the Law Enforcement Officers' Bill of Rights.

He asked to be immediately reinstated with full pay and benefits retroactive to Jan. 20, and that he be provided a bill of rights hearing.

Gibney rejected arguments that any purported waiver of his statutory rights could not be enforced because the details of the agreement were not “clear and unmistakable.” Instead, the judge found that the terms were plain and unambiguous.

“The agreement reached between the parties provided that plaintiff would not be afforded LEOBOR rights during the probationary period, and his failure to comply with relevant rules during that period would result in the imposition of more stringent discipline, up to and including termination of employment,” the judge said.

Gibney, however, left undetermined a finding on whether Lawton had served his two-day suspension, which would have triggered his probation term and cleared the way for him to be fired after he failed to report for the Christmas Day supervisory shift due to heavy intoxication.

“We’re very grateful for the judge upholding the legitimacy of the agreement,” said Vincent F. Ragosta

Jr., who with D. Peter DeSimone and Adam J. Sholes is representing the state police.

Ragosta said an evidentiary hearing will be held to determine the status of Lawton's two-day suspension.

“I think the law is very, very strong in favor of the state police command,” Ragosta said.

State law empowers the chief or highest ranking sworn officer of a law enforcement agency to impose a suspension when the a enforcement officer is under investigation for a noncriminal matter or is subject to disciplinary action.

Lawton's lawyer, Carly Iafate, declined comment.

According to Lawton's complaint, the trouble began in October when a state police major asked him about his dating relationship with a subordinate. State police policy requires officers to notify their supervisor if they are dating a colleague.

The major learned that Lawton was actually living with the unnamed subordinate, whom he occasionally supervised as the night executive officer.

On Dec. 8, according to Lawton, the captain “slid” a six-page disciplinary consent agreement across the desk without informing him of his rights under the Law Enforcement Officers' Bill of Rights.

The agreement imposed a two-day suspension without pay to be served before Jan. 31, 2022, and specified that “upon return to duty” after completing the suspension, he would be placed on probationary status for three months.

The agreement dictated that Lawton would not be afforded Law Enforcement Officers' Bill of Rights protections during his probation and that failure to follow departmental rules during that period could result in more stringent discipline, including termination.

Lawton alleged that the agreement didn't explain that he would become an at-will employee during the probation with no right to due process.

Lawton was scheduled to work Dec. 25, but said he experienced a “mental health crisis” that left him incapacitated and unable to report. The division supervisor came to his home and removed his service weapon.

According to the state police, Lawton was unable to report to duty in his night executive role due to heavy intoxication. They said they received a call from his wife after she was unable to locate him and removed his service weapon — which was not loaded — based on his severe incapacitation.

Airport police deputy chief wins her job back, for now

Paul Edward Parker

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WARWICK – The deputy chief of the Rhode Island Airport Police Department, whose firing did not follow the process laid out in state law, will get her job back, with back pay, but it might be only temporary.

In a ruling Monday, Superior Court Presiding Judge Alice B. Gibney wrote that the Rhode Island Airport Corporation, the state agency that runs six state-owned airports, cannot terminate Deputy Chief Helen Ricci's employment without giving her a hearing under the Law Enforcement Officers' Bill of Rights.

Gibney's ruling is something of a victory for both sides: Ricci gets back pay, but the airport corporation still has the opportunity to fire her; the judge rejected Ricci's argument that charges of insubordination against her should be dismissed because the corporation didn't offer her a hearing within five days of dismissing, as required by law.

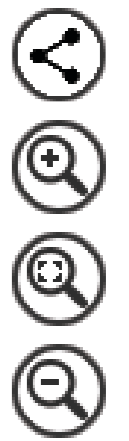
The corporation fired Ricci on Nov. 10, 2020, and she requested a hearing, but the corporation didn't respond to the request, saying Ricci was not covered by the bill of rights law because, with the chief's job vacant at the time, Ricci was the highest-ranking member of the department, which the law exempts.

Ricci sued and won a ruling that she is covered by the law. The corporation appealed, and on June 21 the state Supreme Court ruled in Ricci's favor and sent the case back to Superior Court.

The two sides argued over how much back pay Ricci should receive and whether the charges against her should be dismissed.

Gibney ruled that the corporation could deduct from Ricci's back pay whatever money she had made in other employment since November 2020. Gibney also ruled that the corporation had “good cause” for missing the five-day deadline to start the hearing process while the appeals over whether Ricci was covered by the law played out.

Gibney wrote that the five-day clock will start running when the official order is entered carrying out her ruling.



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