

Connecticut Supreme Court Rules That A Lying Police Officer Must be Reinstated Because His Lies Were Not “So Egregious.”

Working Together

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Should a police officer who was terminated for lying to the Town of Stratford’s independent physician about his alcohol abuse and epilepsy be permitted to return pursuant to an arbitration panel’s determination that a nine-month suspension without pay is sufficient punishment for such conduct? Yes, according to the Connecticut Supreme Court.

In *Town of Stratford v. American Federation of State, County, And Municipal Employees, Council 15, Local 407*, the Court upheld an arbitration award reinstating the police officer terminated for lying during an independent medical examination designed to assess his fitness for duty. An arbitration panel of the State Board of Mediation and Arbitration determined that the “police officer’s lying about his physical and mental condition to doctors that could return him to work is a very serious violation, but understandable because he wants his job back.” The panel therefore reduced the officer’s discipline from termination to reinstatement after nine months with no back pay but with full seniority rights.

The Appellate Court upheld the termination on the grounds that the award reinstating the officer violated the public policy against intentional dishonesty of a police officer in the course of his or her duties. On appeal, the Supreme Court agreed that a public policy “against intentional police officer dishonesty in connection with the officer’s employment” existed. The Court nonetheless reversed and ordered reinstatement of the employee.

Why? While the Court, for the first time, recognized the existence of a public policy against police officer dishonesty, the Court also decided that said public policy did not “*require*” the officer’s dismissal. Quoting from and distinguishing its 2013 decision in *State v. AFSCME, Council 4, Local 391*, 309 Conn. 519, 526 (2013), in which the Court held that an employee who violated the public policy against sexual harassment was *properly terminated*, the Court stated that the fact that “an employee’s misconduct implicates public policy does not require the arbitrator to defer to the employer’s chosen form of discipline for such misconduct.” The Court refused to find that the “lies were ... so egregious” as to demand termination. In assessing the nature of the dishonesty, the Court noted that the lies were not under oath, that the officer’s dishonesty “did not compromise” the officer’s “qualifications or ability to perform his official duties as a police officer” as purportedly evidenced by the fact that the town’s physician returned the officer to duty even after learning of the lies (however, the Court did not explain how a town physician could keep an employee

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from returning to work for lying as opposed to his fitness for duty). Therefore, the Court deferred to the arbitrators’ decision to reinstate the police officer in lieu of termination and reversed the Appellate Court.

The dissent, written by Justice Palmer, expressed concern relating to how the resulting lying police officer’s credibility issues will necessarily undermine not only the reinstated officer’s ability to perform the full duties of his job, such as testifying in court, but also the State’s successful prosecution of criminal matters. Towns required to reinstate officers found to have engaged in intentional dishonesty on matters relating to their employment will therefore be forced to either relieve the officer of many of his law enforcement functions or roll the dice and risk jeopardizing the State’s prosecution of any criminal matter in which the officer is substantially involved.

What does it all mean for public employers?

While the Court’s recognition of a public policy against police officer dishonesty will likely demand more judicial review of arbitration awards reinstating officers terminated for dishonesty, the Court’s refusal to find that the reinstatement of an officer who lied on matters relating to his fitness for duty violates that public policy suggests employers will have a difficult time persuading a court to overturn an arbitration award reinstating a dishonest police officer. Indeed, the Court’s decision sets a very high standard for public employers to meet in order to establish that a reinstatement award violates the public policy against employee dishonesty.

Public employers, therefore, remain subject to the wide discretion that arbitrators enjoy as to whether the employer’s discipline, in the arbitrators’ opinion, is an appropriate penalty for the offense committed – even when a police officer is found to have lied about important aspects of his fitness to remain employed. And courts will most likely continue to largely defer to the arbitrators’ findings with respect to the appropriateness of the penalty.

Tags: State Board of Mediation and Arbitration