



Defense Lawyers
Association

May 2016 Verdict

Submitted By Mark D. Standridge
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Court State Court

County San Miguel County

Judge The Hon. Abigail Aragon

Defense Counsel Mark D. Jarmie

Plaintiff Counsel J. Edward Hollington

Trier Judge

Style *MARTIN X. SALAZAR, Plaintiff, vs. CITY OF LAS VEGAS, Defendant*, No. D-412-CV-2015-00120.

Statement of Facts

Plaintiff was a Police Officer with the City of Las Vegas from November 1999 to January 2015. Plaintiff had been on paid administrative leave for approximately seven months before he resigned in lieu of termination. Plaintiff met with the Chief of Police and a Commander on January 14, 2015--at the time of this meeting, Police Chief recommended plaintiff's termination to the City Manager, however, the City Manager had not acted on that recommendation. During the January 14th meeting, Police Chief told plaintiff that he recommended to the City Manager that plaintiff be terminated. Police Chief gave plaintiff the option to resign in lieu of termination. The plaintiff did not want his personnel file to reflect that he had been terminated from his employment as a Las Vegas Police Officer, as plaintiff felt that a termination would affect his ability to obtain future employment.

The plaintiff typed and submitted his letter of resignation on January 14, 2015; the City received this letter on January 15, 2015 and accepted plaintiff's resignation on January 16, 2015. At the January 14th meeting, plaintiff assisted the Commander in preparing a separation report. On that report, plaintiff wrote in his own hand, "I am leaving for personal reasons." The Commander checked a box on the form in the column headed "Voluntary Quit." The City's Human Resource Director did not accept that report, however, because it was prepared by the Commander, who was not plaintiff's supervisor while plaintiff was on active duty; the form was also incomplete. Because the Police Chief was the plaintiff's supervisor, he was required to fill out the separation report. Police Chief prepared a second separation report dated January 15, 2015 which reflected that plaintiff resigned in lieu of termination. Police Chief met with plaintiff on January 15th to discuss this report, however, plaintiff refused to sign it because the report did not, in his opinion, accurately reflect his voluntary resignation. As such, the report was submitted without his signature on January 16, 2015.

The City's Human Resources Director relied on plaintiff's resignation, the City's acceptance of his resignation, and the fact that the separation report said "Voluntary Quit" "Resigned in lieu of being discharged by employer" to make her determination on when to pay plaintiff his final paycheck. All of the paperwork known to the Human Resources Director indicated that plaintiff had resigned in lieu of being terminated. By resigning his position in lieu of termination, plaintiff was not entitled to appeal his separation from the City. Because the City had determined that plaintiff had resigned on January 16, 2015, plaintiff was paid his final paycheck on January 29, 2015 (one day before the end of the next succeeding pay period) in accordance with NMSA 1978, Section 50-4-5 (1937) and the corresponding City Ordinance. Prior to receiving his final paycheck, plaintiff never made a demand for an earlier payment of his check.

Plaintiff sued under NMSA 1978, Sections 50-4-4 and -7. However, following a one-day bench trial, Judgment was entered in favor of Defendant.

Verdict Defense

Comments

Court noted, inter alia, that when an employee “voluntarily decides to quit rather than face the disciplinary consequences of his actions, this does not constitute a ‘forced resignation,’” citing New Mexico Dep’t of Workforce Solutions Insurance Precedent § 3:01-A. Plaintiff voluntarily resigned his position in lieu of termination; because he did so, Section 50-4-4(C) did not apply. Plaintiff was paid in a timely manner consistent with state law.

Experts

None



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June 2016 Verdict

Submitted By

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Court State Court**County** Doña Ana County**Judge** The Hon. Judge Driggers**Defense Counsel** Blaine T. Mynatt & Ashlee Placencio**Plaintiff Counsel** Mollie McGraw & Margaret Strickland**Trier** 12 Person Jury**Style** *Landau v. Las Cruces Public Schools***Statement of Facts**

Basic premises liability case where plaintiff alleged that a speed bump in the parking lot of a middle school was a dangerous condition which caused her to trip and fall and sustain broken bones etc. Plaintiffs (husband and wife) claimed over 700K in damages at trial. Plaintiff failed to convince the jury that the speed bump caused her fall. Plaintiff's counsel filed over 8 motions in limine on routine and unnecessary issues, and tried to follow in the footsteps of the McGinn firm by glossing over the liability portion of the case and focusing on the damages. Plaintiff's counsel blatantly used the "reptile" theory throughout the trial. Defense counsel exposed the "reptile" theory and book to the jury during closing arguments. Defendant obtained a total defense verdict.

Verdict Defense**Experts** Dr. Daniel Romanelli, Orthopedic Surgeon