



STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

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March 17, 2020

TO: Commissioners  
FROM: Counsel Staff  
RE: Developments in the Counsel's Office since February 12,  
2020

Cases related to Commission cases/jurisdiction

Court upholds firing for falsified overtime slip; Commission UP jurisdiction noted

Ryan v. Township of Boonton & Boonton Twp. Police Dep't, 2020 N.J. Super. Unpub. LEXIS 489 (App. Div. Dkt. No . A-0432-18T1)

The Appellate Division of the Superior Court, in an unpublished opinion, affirms a trial court decision to sustain major discipline imposed on Ryan, a Township police officer. Believing he had been passed over for overtime work, the officer sought compensation. But, after being told by the police union that he could not seek the overtime pay unless he had filed a request for it, Ryan submitted a form falsely stating he had been available for the hours. Criminal charges for official misconduct were not pursued. After a departmental hearing, a 30-day suspension was recommended. Ryan appealed pursuant to N.J.S.A. 40A:14-150 and the court reduced the suspension to 15 days.

In its opinion sustaining the discipline and the penalty, the appeals court discussed the officer's defenses including that he was disciplined for exercising rights protected by the Employer-Employee Relations Act.

[Ryan] was disciplined after his attendance with counsel at the August 14, 2015 interview with Lieutenant Danyo. Plaintiff had been informed about the nature of the August 14 meeting and his attorney signed the "Weingarten Representative Acknowledgement." Even if [a prior meeting] amounted to a Weingarten violation, the Public Employment Relations Commission has the "exclusive power" to resolve an unfair labor practice. N.J.S.A. 34:13A-5.4(c).

#### Other Cases

Statutory removal procedure unavailable to officer who resigned to avoid prosecution.

Del Turco v. Randolph Twp. Police Dep't, 2020 U.S. Dist. LEXIS 3753

The United States District Court for the District of New Jersey, dismisses federal claims filed by a former police officer and remands remaining state claims to the Superior Court of New Jersey. To avoid criminal charges for giving false testimony before a grand jury and at a court hearing Del Turco resigned from the Township's police department. Subsequently he filed a lawsuit asserting numerous state and federal claims. Among them was an assertion that his federal procedural due process rights were violated because he was not removed in accordance with the procedure set forth in N.J.S.A. 40A:14-147 et seq. The court held that the procedure was inapplicable because the officer had voluntarily resigned.