

COURTS DECIDE IF RESIGNATION WAS VOLUNTARY OR CONSTRUCTIVE DISCHARGE



After spending the night in jail, a woman submitted her resignation – but only after her supervisor implied that resigning was her best option. She filed suit, alleging constructive discharge. The courts had to decide if her resignation was legally the same as a termination, or if her decision to quit was voluntary. The woman worked as a clerk in the Electronic Monitoring Department for the Lake County, OH, court. She was occasionally “on-call” between the hours of 4:30 pm and 8:30 am. During these times, she monitored the location of convicted felons tracked with an electronic monitoring system. If an alarm sounded, she was required to either locate the felon or notify a security officer. In February 2006, the woman’s shift ended, and she was officially on-call. To pacify her “bad day,” she picked up a 12-pack on the way home, where she drank beer and fought with her daughter. The police were called, she was arrested for domestic violence, and she was in jail overnight. At the jail, she used her phone call to call her daughter’s father and asked him to pick up her work folder and call her supervisor to let him know that she had been incarcerated. She was released the next day but didn’t make it home until the evening. She telephoned the Department’s unit manager, who gave her the choice of coming into the office or dealing with the incident after a planned vacation. She decided to wait post-vacation, but the unit manager called her back and asked her to come in to see her supervisor. The manager



added ominously that she should bring her IDs, keys and pager. At the office, the supervisor said that he was recommending termination. He also expressed a desire in the woman’s resignation, stating that if she didn’t resign, the situation might “get ugly.” He allegedly told the woman that a resignation would also keep her file clean. She couldn’t get a hold of her lawyer, as it was past 5:00 pm, so the woman signed the resignation letter. She filed a lawsuit against the county, claiming constructive discharge and a violation of her procedural due rights. The district court, however, didn’t believe that the woman’s resignation was involuntary, as she had attempted to prove at the hearing. Her supervisor did not explicitly threaten her, merely saying that he was “recommending” her firing, as the ultimate decision for termination would have been subject to review by the county’s Common Pleas Court. And though the woman’s attorney wasn’t in the office when she called, the court noted the fact that she was allowed to make the call prior to signing the resignation letter. The district court believed that the woman could easily have refused to resign, and appellate judges agreed. Also taking into consideration the fact that the Department had a reasonable incentive for firing the woman, the appeals court affirmed the district court’s grant of summary judgment in favor of the county.