

POLICE OFFICER FIRED FOR "RIDICULING" CHIEF WITH BULLETIN BOARD POST



A former Texas police officer sued the Chief of Police, the Assistant City Attorney and the City of Austin, TX, after he was fired for insubordination and violating policies of the Austin Police Department (APD). He alleged, among other things, retaliation for exercising his First Amendment rights. After an APD sergeant was fired for sexual harassment and dishonesty, the office in question researched – on a City computer – similar allegations made against the Chief. He found a website making such claims, copied the information and printed it. He then showed the document to other officers and posted it in plain sight on the bulletin board in the “show-down” room, where officers draft reports and turn in evidence. When those higher up the chain of command heard of the posted document, an Internal Affairs complaint was initiated. IA found that the officer had violated APD policies with improper computer use and undermining the department in a manner believed defamatory. A Disciplinary Review Hearing was held, with the additional allegation of insubordination, and though higher-ups recommended termination, the Chief offered the man the chance to resign or a 30-day unpaid suspension. The officer declined both, and he was subsequently fired, a memorandum citing the man’s 60-day suspension from three years ago – APD violations resulting from his relationship with a known user of methamphetamine. The former officer brought action against the three named defendants, alleging denial of due process rights, retaliation for exercising his freedom of speech, a City policy that violated the First Amendment, and state-law claims of defamation and slander. The Chief, Assistant City Attorney and the City each asserted that they were entitled to immunity. The district court granted summary judgment in favor of the defendants on all claims save the “unconstitutional prior restraint on free speech” against the City. With respect to said claim, the plaintiff was awarded nominal damages – damages in which the loss or harm is a technical issue – totaling one dollar. Nominal damages are typically very little



regarding monetary compensation.

On appeal, the man argued against the court’s ruling of “no actual damage” for the claim in his favor, an officer guilty of insubordination for defying a rule later determined to be unconstitutional, the Chief and attorney granted immunity and his entitlement of \$2,500 in attorney fees. Appellate judges dismissed the first point, believing that the officer would have been fired even if that particular violation had been disregarded. Likewise, the appeals court found that the man’s conduct was “disrespectful” and had intended to “ridicule” his superior officer. The man argued that the two defendants should not have been entitled to qualified immunity because they acted “without the authority of law.” He cited the memorandum’s reference to the prior policy violations. This, however, is challenging allegations from three years before, consequently rendering his claim time-barred, having bypassed the statute of limitations – two years for Texas. Finally, the man claimed that his attorney fees totaled \$100,000 – forty times the amount that he was awarded. This was also dismissed, as the courts believed that, when a plaintiff is awarded only nominal damages when seeking monetary relief, “the only reasonable fee is usually no fee at all.” Regardless, he was awarded some compensation for said fees. The appeals court affirmed the district court’s decision.