

VERDICTS & SETTLEMENTS

EMPLOYMENT LAW

RETALIATION

Wrongful Termination

VERDICT: Defense.

CASE/NUMBER: Deanna Michelle Mory v. City of Chula Vista / 37-2009-00079219-CU-WT-SC.

COURT/DATE: San Diego Superior / Oct. 21, 2011.

JUDGE: Hon. William S. Cannon.

ATTORNEYS: Plaintiff - Gregory G. Petersen, Elizabeth Barker (Barge, Peterson & Odenbreit, LLP, Irvine).

Defendant - Edward P. Zappia (The Zappia Law Firm, APC, Los Angeles); Bart J. Miesfeld (Office of the City Attorney, Chula Vista).

FACTS: Plaintiff Deanna Michelle Mory was a police officer for the City of Chula Vista. Plaintiff was terminated on charges arising from a citizen complaint that she had stolen back a diamond engagement ring from the residence of her ex-fiance, after she had returned it to him after ending their engagement.

PLAINTIFF'S CONTENTIONS:

Plaintiff contended that her termination was unwarranted and too severe. Plaintiff argued that she never voluntarily returned the diamond engagement ring to her ex-fiance, but only returned it to him under fear and duress instilled by him after she broke off their engagement. Thus, the engagement ring always rightfully belonged to her, and she was within her rights to take back possession of the ring.

Plaintiff also contended it was permissible to enter her ex-fiance's residence to find and take the engagement ring back, because she was temporarily living there with his permission while he was away at military training.

Plaintiff claimed that termination was too severe since the City's Civil Service Commission reversed the most serious of charges against her for theft and dishonesty, and only affirmed charges against her for conduct unbecoming an officer and interfering with a personnel investigation.

DEFENDANT'S CONTENTIONS:

The city contended that plaintiff voluntarily returned her engagement ring to her fiance after she broke off their engagement, based on their continued friendly relationship even after they broke up. Plaintiff then later received permission to enter her ex-fiance's residence while he was away at military training under false pretenses, such that she could find, steal back and sell the diamond engagement ring while he was away. Further, even if Mory had returned the ring under duress and it rightfully belonged to her, it was still deceitful conduct unbecoming an officer to enter her ex-fiance's residence under false pretenses to take back possession of the ring and try to sell it while he was away without his permission. Further, after plaintiff was terminated, the city's civil service commission affirmed plaintiff's termination after a full evidentiary arbitration.

RESULT: After plaintiff's termination was affirmed by the San Diego Superior Court, the parties settled plaintiff's remaining federal and state retaliation and wrongful termination claims based on plaintiff's dismissal in exchange for defendant's waiver of fees and costs.

OTHER INFORMATION: The superior court denied plaintiff's petition for writ of mandamus seeking reinstatement and back pay, ruling good cause existed to terminate plaintiff's employment as a police officer.

FILING DATE: Oct. 30, 2009.