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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

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Month of July – 2022 - ALTERNATIVE

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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

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Cintron v. Dart, 2022 IL App (1st) 201369, June 21, 2022.

A deputy sergeant in the Sheriff's jail witnessed excessive force being used against a prisoner, failed to intervene to stop or prevent the excessive force, failed to report the use of excessive force, and then submitted a false report and signed off on the false reports of other deputies. Should he be fired?

FACTS: Wilfredo Cintron worked as a correctional officer for the Cook County Sheriff's Office, assigned to Cook County Jail. As a sergeant, he oversaw a team of correctional officers and had additional supervisory duties such as personnel management and disciplinary responsibilities. On May 4, 2012, a physical altercation broke out between several correctional officers, including Deputy One and Deputy Two, and detainee Jabari Funches. Cintron was the sergeant on duty. Cameras recorded an altercation. Recordings of the altercation taken from different angles showed that at least five officers surrounded Funches and punched and kicked him multiple times while Funches was in handcuffs. The recordings also show Cintron standing next to Deputy Two while he repeatedly kicked Funches and having his hand on Deputy Two's back when he pushed Funches into a wall.

Cintron completed a Response to Resistance/Use of Force Data Collection Report and signed off on the other Officer's reports one hour and twenty minutes after the incident. He did not have access to the recordings before filing the report. Cintron stated that Funches took a "combative stance" and "started to raise his hands" before Deputy One hit him. Cintron added that Deputy One struck Funches with an open hand and Deputy Two helped restrain and handcuff Funches. Other officers submitted reports with nearly identical descriptions, with one officer asserting nothing happened after the officers handcuffed Funches. No report detailed force more than an open hand strike. Cintron signed off on each of the reports.

Funches filed a complaint with the Sheriff's Office of Professional Responsibility ("OPR"). After conducting an internal investigation, OPR recommended the Merit Board fire Cintron. During a hearing on this recommendation, two expert witnesses testified that: (i) Deputy One and Deputy Two unjustifiably used excessive force against Funches, and (ii) Cintron violated Sheriff's orders prohibiting the filing of false reports, requiring officers to intervene during an excessive force incident, requiring officers to report all uses of force, and another specific to sergeants' duties. After a hearing, the Sheriff's Merit Commission ordered Cintron fired. On administrative review, the trial court affirmed the Board's decision. From that decision, Cintron brought this appeal.

ISSUE #1: Manifest Weight of the Evidence. Cintron contended the Board's decision to terminate him was against the manifest weight of the evidence. Specifically, he argued that the expert witness testimony at his hearing did not support the Board's findings of fact.

THE LAW: A police officer may not be discharged without cause. 65 ILCS 5/10-1-18(a) "Cause" means " 'some substantial shortcoming which renders [the employee's] continuance in his office or employment in some way detrimental to the discipline and efficiency of the service and something which the law and a sound public opinion recognize as a good cause for his [discharge].' " Because the Board, and not the reviewing court, stands in the best position to determine the effect of an officer's conduct on the department, the reviewing court gives the Board's determination of cause heavy deference. Illinois courts have recognized that "police departments, as paramilitary organizations, require disciplined officers to function effectively and have accordingly held the promotion of discipline through sanctions for disobedience of rules, regulations, and orders is neither inappropriate nor unrelated to the needs of a police force." Thus, a court review is limited to whether the agency's decision was arbitrary and unreasonable or unrelated to the requirements of service.

FINDINGS: The appellate court disagreed. According to the Court, both witnesses viewed the recordings of the incident and based their testimonies on them. One expert testified that the recordings show Deputy Two kicking Funches while Cintron stood next to him and Deputy One pushing Funches into a wall while Cintron had his hand

on Deputy One's back. The other expert testified similarly.

Further, both experts testified that Cintron failed to document in his report that Deputy Two kicked Funches and Deputy One pushed Funches into a wall. One expert testified that Cintron's report contained false information: Cintron claimed force was justified because Funches took a combative stance and raised his hands towards Deputy One. But Cintron later acknowledged the recordings show that, from where he stood, he could not have seen how the altercation began. The expert also testified that the recordings show that after Deputy One struck Funches, Funches' hands went up as his body rocked backward, supporting the Board's findings.

According to the Court, the Board considered the testimony of the expert witnesses and Cintron. It concluded that sufficient evidence supported the violation of seven orders, particularly the recordings, and could not say "the opposite conclusion is clearly evident." Thus, the Court held that the Board's finding was not against the manifest weight of the evidence.

ISSUE #2: Cause to Discharge. Cintron maintained that the Board's findings do not provide a sufficient basis for discharging him.

FINDINGS: Again, the Court disagreed with Cintron. The Board determined Cintron's conduct sufficiently severe to warrant discharge. This conduct included witnessing excessive force used against Funches, falsely reporting what he saw on a Response to Resistance/Use of Force Data Collection Report, and failing to document what he witnessed on that report. The Board concluded that Cintron's actions violated general orders, Sheriff's orders, and Cook County Sheriff's Department Board Rules and regulations.

According to the Court, the evidence from witness testimony and the recordings showed that Cintron submitted an inaccurate report on the use of excessive force and approved his subordinates' false reports. As noted, the Board found Cintron's actions violated seven orders. Thus, the Board's decision to terminate him was not arbitrary.

ISSUE #3: Cintron's Use of Force. Cintron then argued that he, himself, never used excessive force, so the Board's decision was unreasonable.

FINDINGS: The Court held that although Cintron did not directly use force, the evidence established he allowed his subordinates to use excessive force, failed to report the incident accurately, and signed off on false reports.

ISSUE #4: Cintron's Status. Finally, the Court declared that it could not ignore the fact that Cintron acted in his capacity as a sergeant. The Court held that the Sheriff could not fully perform the duty of protecting "the public from the wrongdoing of officers working for the department if their fellow officers help cover up the wrongdoing."

CONCLUSION: Given all this, the Court found the Board's decision to terminate Cintron was neither arbitrary nor unreasonable and related to the requirements of service.

QUIZ QUESTIONS FOR THE MONTH OF JULY – 2022 - ALTERNATIVE

Cintron v. Dart, 2022 IL App (1st) 201369, June 21, 2022.

1. Illinois law provides that a police officer cannot be fired without cause.
 - a. True
 - b. False.

2. In this week's case, the Cook County Sheriff's Department argued that Citron had a duty to intervene and stop or prevent excessive force from being used against a prisoner. Under current Illinois Law do all law enforcement Officers have a statutory duty to intervene to stop or prevent the use of excessive force?
 - a. Yes.
 - b. No.

3. The People, in this case, argued that the Citron filed a false report concerning this incident. If Citron filed such a report today, he could be charged with committing a felony offense.
 - a. True.
 - b. False.

4. Citron argued that since he himself never used excessive force, his employment was improperly terminated. The appellate court agreed with this argument.
 - a. True.
 - b. False.

QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF JULY – 2022 - ALTERNATIVE

Cintron v. Dart, 2022 IL App (1st) 201369, June 21, 2022.

1. Illinois law provides that a police officer cannot be fired without cause.
a. True. “A police officer may not be discharged without cause. 65 ILCS 5/10-1-18(a).”

2. In this week’s case, the Cook County Sheriff’s Department argued that Citron had a duty to intervene and stop or prevent excessive force from being used against a prisoner. Under current Illinois Law do all law enforcement Officers have a statutory duty to intervene to stop or prevent the use of excessive force?
a. Yes. Section 7-16 of the Illinois Criminal Code (pursuant to Public Acts 101-0652 and 102-0028) now provides: “A peace officer, or any other person acting under the color of law who has an opportunity to intervene, shall have an affirmative duty to intervene to prevent or stop another peace officer in his or her presence from using any unauthorized force or force that exceeds the degree of force permitted, if any, without regard for chain of command.” 720 ILCS 5/7-16

3. The People, in this case, argued that the Citron filed a false report concerning this incident. If Citron filed such a report today, he could be charged with committing a felony offense.
a. True. Section 33-9 of the Illinois Criminal Code (pursuant to Public Acts 101-0652 and 102-0028) now provides: “A law enforcement officer or a person acting under color of law commits law enforcement misconduct when, in the performance of his or her official duties with intent to prevent the apprehension or obstruct the prosecution or defense of any person, he or she: (1) knowingly and intentionally misrepresents or fails to provide material facts describing an incident in any report or during any investigations regarding the law enforcement employee's conduct.” 720 ILCS 5/33-9

4. Citron argued that since he himself never used excessive force, his employment was improperly terminated. The appellate court agreed with this argument.
b. False. The Court held that while Citron did not personally use excessive force, “the evidence established he allowed his subordinates to use excessive force, failed to report the incident accurately, and signed off on false reports.” According to the Court, these acts justified the Board’s decision to terminate his employment.