

The Chief

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NYSCOPBA Says CO Was Wrongly Fired After Probe Answers Deemed Evasive

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DONN ROWE: Firing unjust on two counts.

New York State Correctional Officers and Police Benevolent Association President Donn Rowe has called for the immediate reinstatement of a probationary Correction Officer who he said was unjustly fired for not being forthcoming with investigators after attempting to restrain an inmate who attacked a colleague.

Probationary Correction Officer Wayne Sheridan, who worked at Great Meadow Correctional Facility, entered the room where an inmate attacked a Correction Officer moments after the incident occurred on Dec. 26. Mr. Sheridan, who the union said had good judgment, stepped in to help restrain the inmate.

Could Be Fired

Inspectors then questioned him in a closed-door meeting Jan. 16 where he was denied union representation over NYSCOPBA's objection. Correctional Services Commissioner Brian Fischer concluded that Mr. Sheridan was not forthcoming in his responses, according to the union. He was fired Jan. 29 for "failure to satisfactorily complete probationary period." NYSCOPBA contended that the officer was three days past his one-year probationary period on the date of his firing, but management said the period was extended because of workdays he missed. The other officers faced departmental discipline, but were not fired.

The Department of Correctional Services confirmed that Mr. Sheridan was fired, but a spokesman, Erik Kriss, would not disclose the reason because the incident is currently under investigation. "It is not concluded yet so we are not going to comment on it," he said.

Mr. Rowe condemned the decision that left a 48-year-old father of two without income. "To punish a man who has done nothing but work to protect the residents of New York State is disgraceful," he said. "Officer Sheridan deserves an apology from the DOCS on their mishandling of this situation and should be reinstated immediately."

Mr. Sheridan was not afforded representation in his interrogation because he was a probationary officer with less than a year on the job, according to Mr. Rowe. Other officers are granted representation during disciplinary interrogation.

Filing Complaint With PERB

NYSCOPBA plans to file an Improper Practice Petition with the Public Employment Relations Board about union representation for probationary officers. "We believe the law is very clear that he should have union representation," Mr. Rowe said.

The union charged that DOCS was trying to send a message to other Correction Officers that if they were not forthcoming in disciplinary interrogations, they would be subject to sanctions or termination.

Mr. Rowe said, "To punish a hardworking and devoted officer because the Commissioner did not agree with his account of an incident where an inmate attacked a fellow officer is nothing short of criminal."

In February 2007, the Court of Appeals ruled that public employees do not have an automatic right to union representation during conferences with their supervisors that could lead to disciplinary action. That decision reversed two lower-court rulings upholding a PERB determination in favor of Transport Workers Union Local 100. The board had ruled state workers were entitled to Weingarten rights stipulating that a worker can have union representatives present during investigatory interviews.

Ban Consulting by Firefighters

In June, the Uniformed Firefighters Association protested after the Fire Department issued an order that barred Firefighters who were witnesses in an investigation from consulting with representation before speaking with chief officers. Firefighters who refused faced disciplinary action even though suspects in investigations are entitled to representation.

In September, the state Court of Appeals affirmed a ruling that dismissed a State Trooper Police Benevolent Association suit seeking the right to have lawyers or union representatives present with Troopers during critical incident reviews, which are separate from disciplinary proceedings.