

COURT OF APPEALS OF MARYLAND

Andrew A. Mohan v. Edward T. Norris, et al., 386 Md. 63

871 A.2d 575 (2005) · No. No. 88, September Term, 2004 · Decided April 4, 2005

SUMMARY

The Maryland Court of Appeals held that a police officer permanently certified by the Maryland Police Training Commission may nevertheless be considered in probationary status under the Law Enforcement Officers’ Bill of Rights when newly hired by a police agency that imposes its own probationary period. The court concluded that the Maryland State Police’s two-year statutory probationary period did not conflict with the Maryland Police Training Commission Act. Because Mohan was probationary upon his initial entry into the State Police, he was excluded from LEOBR protections.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Harrell, J.; Bell, C.J.; Raker, J.; Wilner, J.; Cathell, J.; Battaglia, J.; Greene, J.
JURISDICTION	Maryland
DECIDED	April 4, 2005
DOCKET	No. 88, September Term, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mohan sought injunctive relief and a show-cause order requiring the Maryland State Police to provide him with a disciplinary hearing under the Law Enforcement Officers' Bill of Rights. The circuit court denied relief, the Court of Special Appeals affirmed, and the Court of Appeals granted certiorari.
STANDARD OF REVIEW	De novo review because the issue of statutory interpretation is a question of law.
PRECEDENTIAL VALUE	Published precedential opinion of the Maryland Court of Appeals
PARTIES	Andrew A. Mohan v. Edward T. Norris, Maryland State Police

TOPICS

- statutory interpretation
- legislative history
- administrative law
- employment law

PRACTICE AREAS

administrative law

employment law

police disciplinary procedure

QUESTIONS PRESENTED

1. Whether a police officer who is permanently certified by the Maryland Police Training Commission may nevertheless be excluded from the protections of the Law Enforcement Officers' Bill of Rights because the hiring agency places the officer in probationary status upon initial entry into that agency.
2. Whether the probationary period imposed by the State Police Act conflicts with or is preempted by the Maryland Police Training Commission Act or the Law Enforcement Officers' Bill of Rights.

HOLDINGS

1. A police officer who has permanent certification from the Maryland Police Training Commission may nevertheless be in probationary status for purposes of the LEOBR when newly hired by a different police agency and subject to that agency's probationary period. The LEOBR therefore does not protect such an officer during the agency-imposed probationary period, except as otherwise provided for allegations of brutality.
2. The two-year probationary period imposed by the State Police Act does not conflict with or become preempted by the Maryland Police Training Commission Act or the LEOBR. The MPTCA probationary period serves a training and certification function, while the State Police Act probationary period serves the hiring agency's employment, management, and disciplinary authority.

KEY QUOTATIONS

"We conclude that such an officer, while in a probationary status with his or her police agency employer upon his or her initial hiring by that employer, is denied, as a result of that probationary status, the protections of the LEOBR, irrespective of his or her certification status with the MPTC." (575)

"We therefore abide by this language and conclude that a police officer placed "in probationary status" by his or her employer is also "in probationary status" as that phrase is used in the LEOBR." (585)

"JUDGMENT OF THE COURT OF SPECIAL APPEALS AFFIRMED. COSTS TO BE PAID BY PETITIONER." (589)

FACTUAL BACKGROUND

Mohan had previously obtained permanent certification from the Maryland Police Training Commission before being hired by the Maryland State Police in January 2002. His employment agreement and the State Police Act subjected him to a twenty-four-month probationary period. During that period, the State Police charged him with rule violations and imposed an eleven-day summary suspension, but denied him a hearing under the Law Enforcement Officers' Bill of Rights on the ground that probationary officers are excluded from LEOBR coverage.

PROCEDURAL HISTORY

After being charged with violations of State Police rules and summarily suspended for eleven days, Mohan filed a complaint for an ex parte injunction and show-cause order in the Circuit Court for Prince George's County. The circuit court ruled that he was a probationary employee and therefore excluded from the protections of the LEOBR. The Court of Special Appeals affirmed, and the Court of Appeals affirmed that judgment.

DISPOSITION

affirmed

CASES CITED

- Salamon v. Progressive Classic Ins. Co., 379 Md. 301, 841 A.2d 858 (2004)
- Davis v. Slater, 383 Md. 599, 861 A.2d 78 (2004)
- Baltimore City Police Dep't v. Andrew, 318 Md. 3, 566 A.2d 755 (1989)
- Moats v. City of Hagerstown, 324 Md. 519, 597 A.2d 972 (1991)
- Stanford v. Maryland Police Training & Corr. Comm'n, 346 Md. 374, 697 A.2d 424 (1997)
- Moore v. Town of Fairmount Heights, 285 Md. 578, 403 A.2d 1252 (1979)
- Behan v. Gagliano, 84 Md. App. 719, 581 A.2d 854 (1990)
- Carroll v. Town of University Park, 155 F.3d 558, 1998 WL 390617 (4th Cir. 1998)
- Caffrey v. Dep't of Liquor Control, 370 Md. 272, 805 A.2d 268 (2002)
- Price v. State, 378 Md. 378, 835 A.2d 1221 (2003)
- Mohan v. Norris, 158 Md. App. 45, 854 A.2d 259 (2004)
- Mohan v. Norris, 383 Md. 569, 861 A.2d 60 (2004)