

SUPREME COURT OF NEW HAMPSHIRE

Jonathan Duchesne & a. v. Hillsborough County Attorney

167 N.H. 774 (2015) · No. 2014-028 · Decided June 25, 2015

SUMMARY

The Supreme Court of New Hampshire held that police officers were entitled to removal from the Hillsborough County Attorney’s “Laurie List” after an arbitrator overturned disciplinary findings concerning alleged excessive use of force and the Attorney General concluded that their conduct was justified. The court clarified that a single alleged use-of-force incident, without evidence of dishonesty or concealment, generally does not bear on an officer’s general credibility. The court reversed and remanded the superior court’s decision.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Lynn, J.; Dalianis, C.J.; Hicks, J.; Conboy, J.; Bassett, J.
JURISDICTION	New Hampshire
DECIDED	June 25, 2015
DOCKET	2014-028
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The petitioners appealed from the Superior Court's denial of their request for declaratory and injunctive relief, mandamus, and attorney's fees concerning their placement on the Hillsborough County Attorney's "Laurie List."
STANDARD OF REVIEW	An injunction decision is reviewed for an error of law, clearly erroneous findings of fact, or an unsustainable exercise of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Jonathan Duchesne, Matthew Jajuga, Michael Buckley v. Hillsborough County Attorney

TOPICS

- criminal procedure
- evidence
- due process
- equitable relief

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the petitioners were entitled to removal from the Hillsborough County Attorney's Laurie List after the disciplinary finding concerning alleged excessive force was overturned and the incident was removed from their personnel files.
2. Whether a single alleged incident of excessive force, without evidence of lying or concealment, is the type of information that supports placement on a Laurie List used to trigger disclosure of police personnel information.
3. Whether the trial court unsustainably exercised its discretion by deferring to the prosecutor's decision not to remove the petitioners from the Laurie List.

HOLDINGS

1. The trial court unsustainably exercised its discretion by refusing to order removal of the petitioners' names from the Hillsborough County Attorney's Laurie List because the original excessive-force allegation had been determined to be unfounded and no sustained basis remained for their placement.
2. A single alleged incident of excessive force, without evidence that the officers lied or misrepresented their conduct, is not ordinarily probative of general truthfulness or untruthfulness and does not, by itself, justify maintaining the officers on a Laurie List used to trigger automatic disclosure.
3. Courts may not invariably defer to prosecutors regarding the threshold determination of what adverse information warrants placement of a police officer on a Laurie List.

KEY QUOTATIONS

“basic fairness demands that courts not invariably defer to the judgment of prosecutors with respect even to the threshold issue of what kind of adverse information should result in an officer’s placement on a “Laurie List.”” (at 780)

“Given that the original allegation of excessive force has been determined to be unfounded, there is no sustained basis for the petitioners’ placement on the “Laurie List.”” (at 783)

FACTUAL BACKGROUND

The petitioners were Manchester police officers involved in a 2010 off-duty incident at a Manchester bar. Their police chief initially found that they violated departmental policies, including a prohibition on unnecessary use of force, and suspended them; the Hillsborough County Attorney then placed their names on a Laurie List based on the alleged excessive force. A labor arbitrator later found that the City lacked just cause to discipline them, ordered relief that resulted in removal of the incident from their personnel files, and the Attorney General independently concluded that their conduct was justified under New Hampshire law and that no criminal charges were warranted.

PROCEDURAL HISTORY

The petitioners, Manchester police officers, were placed on the Hillsborough County Attorney's Laurie List after their police chief reported alleged excessive use of force during an off-duty bar incident. An arbitrator later found that the City lacked just cause to discipline them, the disciplinary information was removed from their personnel files, and the Attorney General concluded that their conduct was justified and that no criminal charges were warranted. The Superior Court denied relief and denied reconsideration. The Supreme Court of New Hampshire reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings consistent with the opinion, including an order removing the petitioners' names from the Hillsborough County Attorney's Laurie List.

CASES CITED

- State v. Laurie, 139 N.H. 325 (1995)
- Brady v. Maryland, 373 U.S. 83, 87 (1963)
- United States v. Bagley, 473 U.S. 667, 675-76, 682 (1985)
- Giglio v. United States, 405 U.S. 150, 154 (1972)
- Petition of State of N.H. (State v. Theodosopoulos), 153 N.H. 318, 320-21 (2006)
- State v. Etienne, 163 N.H. 57, 90-91 (2011)
- Kyles v. Whitley, 514 U.S. 419, 437-38 (1995)
- State v. Puzzanghera, 140 N.H. 105, 107 (1995)
- State v. Veale, 158 N.H. 632, 639 (2009)
- UniFirst Corp. v. City of Nashua, 130 N.H. 11, 14 (1987)
- State v. Mello, 137 N.H. 597, 600 (1993)