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## C.A. Upholds Firing of Officer Over Sex With Prostitute

By KENNETH OFGANG, Staff Writer

The Court of Appeal for his district has upheld the termination of an Inglewood police officer for having sex with a prostitute while on duty, rejecting his claim that he was improperly interrogated.

Div. One Thursday affirmed an order by since-retired Los Angeles Superior Court Judge Dzintra Janavs, denying Richard Correa's petition for writ of mandate.

Correa brought his petition last year after the city notified him that it intended to terminate his employment for "conduct unbecoming an officer" in relation to an incident that the city became aware of a year earlier. He claimed in his petition that the interrogation violated his rights under the Public Safety Officers Procedural Bill of Rights Act.

Evidence presented at the hearing on the petition showed that Correa was served with notice of investigation on Jan. 10 of last year and ordered to appear for interrogation the next day, which was a Thursday. He attempted to engage counsel through the Inglewood Police Officers Association but none of the attorneys in the firm representing the association, now known as Lackie, Dammeier & McGill, was available that day due to other commitments, including four other interrogations of Inglewood officers.

John Backhit of that firm testified at the hearing that he asked Lt. Mark Fronterotta of the internal affairs staff if two of the interrogations could be put over one day to Friday and the others to the following Monday. Fronterotta, Backhit insisted, was adamant that the interrogations would not be delayed unless the officers waived the Bill of Rights Act's requirement that any disciplinary action be taken within one year of the date the department learned of the alleged misconduct.

Fronterotta disputed that testimony, saying he told Backhit he would be willing to interrogate Correa on Friday or on Saturday morning, rather than Thursday, but that Backhit said he was unavailable Friday, would not agree to Saturday, and would not waive the one-year limitation.

An officer of the Inglewood POA acknowledged that Fronterotta told him that the staff might be willing to come in on Saturday morning if Correa's attorney was

available.

Correa appeared for interrogation on Thursday and said he wanted Backhit to be there, and was told that the interrogation could be postponed if he signed a time waiver, but he refused to do so. The interrogation proceeded without a lawyer or union representative present, and the department served notice of intent to terminate following the interview.

Janavs, finding Fronterotta's testimony more credible than Backhit's, ruled that Correa was given a reasonable opportunity to be represented at the interrogation and that the department did not exceed its authority in terminating him. While the judge agreed with Correa that the city failed to afford him adequate notice of the date and time of the interrogation, she found that the short notice was not prejudicial because the officer was able to secure counsel and the city attempted to accommodate counsel's schedule.

Justice Frances Rothschild, in an unpublished opinion for the Court of Appeal, said the evidence supported the city's contention that it reasonably attempted to accommodate the officer's desire to have counsel present during the interrogation, and that "[n]o more was required."

The justice went on to reject the contention that Fronterotta, by "shaking his head every time" the officer gave what the lieutenant thought was an unsatisfactory answer, violated a section of the act limiting questioning to two officers at a time.

Rothschild noted that the officer did not raise this objection at the time of the interrogation, and that the statute explicitly permits persons other than the accused officer and the interrogators to be present. "In any case, the court's implied finding that whatever Fronterotta did was not coercive is supported by the record," the jurist wrote.

Presiding Justice Robert Mallano and retired Los Angeles Superior Court Judge Stanley Weisberg, sitting on assignment, concurred in the opinion.

Counsel on appeal were Backhit, Dieter C. Dammeier, Zahra Khoury and Michael A. McGill, all of Lackie Dammeier, for the officer and Glen E. Tucker and Pam P. Kotchavong of Aleshire & Wynder for the city.

The case is *Correa v. City of Inglewood*, B204205.

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