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Massachusetts City May Be Liable for Rapist Cop

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(CN) - A Massachusetts woman who was repeatedly raped by a police officer with a history of sexual misconduct can advance claims against his employers, a federal judge ruled.

Kevin Sledge, a former officer of the police department in Lawrence, Mass., is serving 10 years after he was convicted of raping Couerdalene LaPierre, as well as three counts of indecent assault and battery.

LaPierre sued Sledge, the city of Lawrence and Lawrence police chief John Romero, claiming that they were negligent and violated her civil rights.

She claimed to have met Sledge on Sept. 25, 2008, after she was separated from the friends with whom she had gone out drinking to celebrate a birthday.

LaPierre said her phone broke, and that Sledge offered to drive her to the police station in his own car, a silver Jaguar, so that she could get in touch with her friends.

Sledge had been on duty, working the 1 a.m. to 9 a.m. shift, according to media reports of his criminal trial.

On the way to the station, LaPierre allegedly fell asleep in the passenger seat. Sledge parked near the station, reclined her seat and went back to work, but surveillance video shows that he revisited his car five times that morning, according to the complaint.

LaPierre said she fainted in and out of consciousness as Sledge fondled her, put his hand inside her, and thrust himself onto or into her.

Lawrence and Romero moved to dismiss the negligence-based claims, but U.S. District Judge Rya Zobel tossed just one of the six counts Wednesday, finding that LaPierre cannot hold the city liable for failing to properly monitor the video cameras that observe the police station premises.

Section 10(j) of Massachusetts general law protects public employers against liability for failing to prevent harm caused by others.

Zobel said "the 'negligent failure to maintain adequate security measures' does not 'originally cause' any harm committed by a third party."

"In this context, it is irrelevant that Sledge was a public employee, since the asserted negligence in Count VI stems from the city's failure to monitor its premises rather than from its relationship with Sledge," Zobel added.

In refusing to exempt other claims, Zobel said "it is not clear how section 10(j) should apply to a claim that that a public employer negligently failed to supervise or train a public employee."

Though the exemption would shield a parole officer who failed to prevent a rape committed by a parolee, public employers are still liable under 10(j) for failing to prevent harmful actions committed by their employees.

"It is hard to see why a city should be liable for negligently hiring him and assigning him to a position where he can do harm, but should not be liable for negligently supervising and training him after it assigns him there," Zobel wrote. "Imagine two cases: In one, a city hires a known psychotic lunatic to be a police officer. In the second, a city hires an apparently normal person to be a police officer, watched the officer descend into psychotic lunacy during his employment, and nevertheless continues to employ him in the same position with no supervision. Why should the first city be liable, but not the second?"

Lawrence must face claims that it was aware of Sledge's propensity to periodically leave his post and engage in sexual conduct with other individuals.

"In fact, the city had raised Sledge's 'inappropriate and high risk sexual behavior while on duty' as a defense to a discrimination action that Sledge had previously filed," the ruling states, summarizing LaPierre's complaint.

Zobel refused to let Lawrence claim the exemption available under Section 10(c) of Massachusetts law, which covers claims arising from "intentional actions" on the part of their employees.

This exemption is inapplicable because the counts in question "seek to hold the city defendants liable for their own negligent acts in training, supervising, and employing Sledge and in failing to monitor their premises." 