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IN THE CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT, IN AND FOR VOLUSIA COUNTY, FLORIDA

CASE NO.:

IN RE THE MATTER OF RYAN HUNT,
Petitioner,

vs.

CITY OF NEW SMYRNA BEACH POLICE DEPARTMENT,
Respondent.
_____/

PETITION FOR WRIT OF MANDAMUS

Petitioner, Ryan Hunt, through the International Union of Police Associations, AFL-CIO (hereinafter, "IUPA") by and through counsel and pursuant to Article V, Section 5(b), Constitution of the State of Florida and Rule 1.630, Fla. R. Civ. P., petition this Court for a Writ of Mandamus directing the City of New Smyrna Beach Police Department to hold a compliance review hearing pursuant to Fl. Stat. 112.534. In support thereof, Petitioners allege as follows:

INTRODUCTION

This action seeks a Writ of Mandamus to compel the City of New Smyrna Beach Police Department to hold a compliance review hearing pursuant to Fl. Stat. 112.534.

2024 13729 CIDL

JURISDICTION

1. This Court has jurisdiction to issue a Writ of Mandamus under Article V, Section 5(b), Constitution of the State of Florida and Rule 1.630, Fla. R. Civ. P.
2. The Petitioner is a resident of the State of Florida.
3. At all times material, the petitioner was a Florida certified law enforcement officer employed by the New Smyrna Beach Police Department, which is a law enforcement agency within the Florida political subdivision of Volusia County.
4. All of the acts complained of herein occurred within Volusia County, Florida.

PARTIES

5. At all times material, Petitioner Ryan Hunt was a "law enforcement officer" as defined by s. 112.531, Florida Statutes, employed full-time by the New Smyrna Beach Police Department as a law enforcement officer.

FACTS

6. The investigation in question is governed by Fl. Stat. 112.534, which states, in pertinent part:
    a. (a) The law enforcement officer … shall advise the investigator of the intentional violation of the requirements of this part which is alleged to

have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.

b. (b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer …, the officer shall request the agency head or his or her designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.

c. (c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.

d. (d) Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation …

7. On November 12, 2024 Officer Ryan Hunt was given the opportunity to review the evidence provided for his Internal Affairs (IA) investigation.
8. Shortly thereafter, also on November 12, 2024, Officer Hunt's interview was scheduled by the New Smyrna Beach Police Department.
9. Officer Hunt advised that the 911 audio of the incident and the filing decision and documentation for the domestic incident, which was the basis of the IA, needed to be provided.
10. The Internal Affairs investigator, Lt. Mechtel denied this request. (App. A)
11. Officer Hunt then requested the agency head be advised of this alleged LEOBOR violation. (App. A)
12. Lt. Mechtel advised the Deputy Chief (the designee) of the alleged violation. The Deputy Chief determined the claims were not violations of LEOBOR and ordered the interview continue. (App. A)

13. Lt. Mechtel attempted to continue the interview, and when Officer Hunt refused based on the alleged LEOBOR violations, Lt. Mechtel advised that refusing to interview would be considered insubordination. (App A)

14. Officer Hunt then advised he would not interview and the interview was terminated.

15. Officer Hunt filed his written notice of violation and request for compliance review panel on November 13, 2024 (App B).

ARGUMENT

16. The requirements of Fl. Stat. 112.532 were followed by Officer Hunt.

17. The requirements of Fl. Stat. 112.532 are currently being violated by the New Smyrna Beach Police Department in multiple ways:

    a. The Deputy Chief finding no violation of LEOBOR and refusing to allow a compliance review hearing is in direct violation of Fl. Stat. 112.532(1)(d).

    b. Lt. Mechtel warning of insubordination and not immediately terminating the interview is in direct violation of Fl. Stat. 112.532(1)(b).

WHEREFORE, the Petitioner, Ryan Hunt, respectfully requests this Honorable Court to order the City of New Smyrna Beach Police Department to hold a compliance review hearing pursuant to Fl. Stat. 112.534.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished, by electronic delivery to Carrie Avallon, Esquire, City of New Smyrna Beach (Carrie Avallone cavallone@cityofnsb.com), on this 18th day of November, A.D., 2024.

LAMBERT LAW

/s/ Bryan G. Lambert

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