

Carson deputy wins federal decision in dog-handling case

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BY GEOFF DORNAN

The 9th Circuit Court of Appeals has ruled a Carson City sheriff's canine deputy is entitled to reasonable compensation for extra hours she put in caring for and training her police dog.

Paula Leever, who has since left the department, sued because the sheriff's department paid her just \$60 every two weeks for the extra hours required to care for her police dog Scout. That agreement was worked out without Leever's participation by the city and the Carson City Sheriff's Protective Association.

Her lawyer argued that amounts to about one hour of overtime pay per week when it actually takes many more hours to properly care for the dog. She said she spent an average of 28 hours a week caring for and training Scout.

She sued for back pay but the city, pointing to the agreement with the deputy's union, moved to dismiss the case, saying that was a reasonable agreement to compensate Leever for her overtime in caring for the dog. Magistrate Robert McQuaid agreed and dismissed the case. Leever appealed to the 9th Circuit in San Francisco.

The appellate court, in an opinion issued this week, agreed the city and the association were within rights to negotiate an agreement for compensation.

"The fact that Leever did not directly participate in the negotiations does not undermine the existence of the agreement itself," the opinion states.

But the opinion says that alone doesn't justify dismissing the case.

"The city failed, however, to show that its agreement with Leever was 'reasonable' as a matter of law."

The opinion says that, "at a minimum, an agreement must take into account some approximation of the number of hours actually worked by the employee." It points out Leever was never asked how much time she put in caring for the dog.

"There is no evidence in the record that either the city or the union made any inquiry into the number of hours spent or reasonably required to be spent, by Leever or other canine officers on canine care when negotiating the 'canine officer' provision," the opinion states.

Instead, it says, the city relied on a study comparing what other police agencies pay canine officers.

"The 'study,' however, consisted of nothing more than handwritten notes on a desk calendar," it says.

The opinion took no stand on her claim she should receive 28 hours a week overtime pay for taking care of the dog and pointed out that federal law doesn't require canine care to be compensated at the full salary rate she received while on duty. It also noted there are other issues to consider, including that the city provides canine officers compensation for food and other needs of the dogs, a vehicle to transport them and time on duty for training each month.

The appellate court ordered the case back to district court in Reno for a full review of Leever's claims and the city's contract to compensate canine officers.

Neither her lawyer, Day Williams, nor the Carson City's counsel in the case, Mark Forsberg, could be reached for comment.

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