

May 5, 1987

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
NATE CAPLAN v. CITY OF SAN DIEGO, et al.
Superior Court No. 573438

On September 30, 1986, Sergeant Nate Caplan of the San Diego Police Department filed a Petition for Writ of Mandate and Complaint for Damages, Injunction and Declaratory Relief in Superior court. Petitioner sought the writ to compel the City to set aside its decision to deactivate him as a Field Training Officer (FTO) in the Police Department; to reinstate him as an FTO with back pay; to expunge all adverse comments in his personnel record; and, to rehear the appeal of his deactivation. The complaint sought injunctive relief and damages for violation of Plaintiff's civil rights under 42 U.S.C. .1983. He alleged that he was deactivated from his FTO status without due process of law.

Respondent City filed its opposition to the Petition for Writ of Mandate on November 24, 1986. On the same date, Respondent City filed an Answer and Cross-Complaint for Breach of Collective Bargaining Agreement, Breach of Implied Covenant of Good Faith and Fair Dealing and Violation of the Meyers-Milias-Brown Act.

The hearing was held on the Petition for Writ of Mandate before the Honorable Arthur W. Jones in Department 35 of the San Diego County Superior Court on December 1, 1986, at 9:00 a.m. Following the hearing, the court denied the Petition for Writ of Mandamus for the following reasons: Petitioner failed to exhaust his administrative remedies under the applicable Memorandum of Understanding between The City of San Diego and the San Diego Police Officer's Association; Petitioner had no vested right to a Field Training Officer assignment; there was sufficient evidence in the record to support the Hearing Officer's decision to uphold the Department's deactivation of Sergeant Caplan from his Field Training Officer assignment; Petitioner failed to establish that there was abuse of discretion by the San Diego Police Department; and Petitioner was afforded due process and there had been no deprivation by the City of his liberty interests or other constitutionally protected right.

Following entry of the Order Denying the Petition, Sergeant Caplan's attorney agreed to dismiss the complaint for damages and injunctive relief in exchange for Defendant City's agreement to

dismiss its cross-complaint against Sergeant Caplan. The Order Denying Plaintiff's/Petitioner for Writ of Mandate was entered by the Court on January 15, 1987. The dismissal of the Complaint for Damages and Cross-Complaint was entered by the court on January 20, 1987.

Plaintiff/Petitioner was represented by Attorney Everett L. Bobbitt of the law firm of Thistle & Krinsky. Respondent/Defendant City was represented by Deputy City Attorney Cristie C. McGuire.

Respectfully submitted,
JOHN W. WITT
City Attorney

JWW:CCM:hk(x043.1)
RC-87-15