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KATHY BRACK, CLERK

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*Signed
4-27-2010*

BEFORE THE LEWIS COUNTY SHERIFF'S
CIVIL SERVICE COMMISSION
STATE OF WASHINGTON

In the Matter of Deputy Hal Sprouse

LEWIS COUNTY DEPUTIES GUILD,)

Appellant,)

and)

LEWIS COUNTY SHERIFF,)

Respondent.)

DECISION AFTER
HEARING

THIS MATTER came before the Lewis County Civil Service Commission (hereinafter "Commission") on April 19 and 20, 2010, for a hearing on the appeal by Hal Sprouse, Deputy Sheriff of a termination order effective January 15, 2009, for calling the on-duty Deputy Prosecuting Attorney to report what he alleged to be the crimes of Intimidation and Tampering with a Witness, himself, by the command authorities of the Lewis County Sheriff's Office. In addition, it was alleged that he was untruthful with Sergeant Pat Smith when being interviewed concerning his allegations by not revealing that he had contacted the Prosecuting Attorney's office concerning those allegations. The Lewis County Sheriff further

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OPY

1 alleges that this conduct violated the chain of command of the Sheriff's Office,
2 was insubordinate, and was an abuse of his position as a law enforcement officer.

3 After careful consideration of the evidence presented, and although we
4 find that Deputy Sprouse's telephone call to the Prosecuting Attorney did not
5 violate the chain of command nor was it insubordinate and further that it was not
6 proved that he was untruthful with Sergeant Smith, his action in calling the
7 Deputy Prosecuting Attorney on-call was without a good faith belief that a crime
8 was committed, was retaliatory for his 18-month letter, was vindictive in nature,
9 and that the penalty of termination was imposed in good faith for just cause.

10 This unfortunate situation began in March 2009, when the Lewis County
11 Sheriff and the Lewis County Sheriff's Office failed to bring in an outside agency
12 to respond to the report of a runaway child living on the Sheriff's property.
13 Deputy Sprouse was asked by Chief Criminal Deputy Seiber to investigate that
14 complaint. Deputy Sprouse felt at the time, and justifiably so, that he was placed
15 in an awkward position. The subsequent investigation by the Washington
16 Attorney General's Office, which was requested by the Lewis County Prosecuting
17 Attorney, found that as a result of this matter not having been referred to an
18 outside agency, a number of LCSO employees willfully neglected to perform their
19 duties, including Sheriff Mansfield. While that investigation was pending, in
20 August of 2009, a copy of the Sheriff's report on the runaway at the Sheriff's
21 property was leaked to *The Chronicle*. An investigation revealed that Deputy
22 Sprouse properly had a copy of the report at his residence, and when that copy
23 was retrieved, it contained the fingerprints of Deputy Sprouse's son and son's
24 girlfriend. Because the report was otherwise password-protected, and would have
25 been available only to a limited number of members of the Lewis County

1 Sheriff's Office, including the sergeants, rather than send a sergeant to talk with
2 the son and son's girlfriend, Commander Aust and Chief Civil Deputy Brown
3 were dispatched to do so. That investigation did not lead to any conclusions with
4 respect to who had leaked the report to *The Chronicle*. What it did result in,
5 though, was an 18-month timed letter of reprimand given to Deputy Sprouse for
6 not properly securing the report at his home. That disciplinary action is currently
7 on appeal and has not been resolved.

8 The evidence indicates that Deputy Sprouse was quite upset by the 18-
9 month letter of reprimand and discussed on numerous occasions with his
10 immediate supervisor Sergeant Snaza, this anxiety and belief that he was being
11 intimidated as a potential witness in any action that might be brought against the
12 Sheriff. Sergeant Snaza recommended to him that he contact the Lewis County
13 Sheriff's Guild concerning this situation, but also told him that, in his opinion,
14 nothing that Deputy Sprouse told him amounted to the crime of Intimidating a
15 Witness or Tampering with a Witness. Sergeant Snaza relayed Deputy Sprouse's
16 concerns to Sergeant Pat Smith, who set up an interview with Deputy Sprouse for
17 the afternoon of October 24, 2009, a Saturday. That morning, Sergeant Snaza
18 advised Deputy Sprouse of that meeting and that he (Sergeant Snaza) was told to
19 communicate to Deputy Sprouse that he should not discuss this with anyone other
20 than his Guild representative, pending the interview with Sergeant Smith.
21 Between that conversation and the interview with Sergeant Smith, Deputy
22 Sprouse called the on-call Deputy Prosecuting Attorney Jonathan Richardson and
23 advised him that he felt that the crimes of Intimidating a Witness and Tampering
24 with a Witness were being committed by senior members of the Lewis County
25 Sheriff, including Chief Brown, Commander Aust and Chief Seiber. This caused

1 Mr. Richardson to contact the Prosecuting Attorney Michael Golden, who quite
2 properly referred the matter to the Washington State Patrol, which was currently
3 investigating the runaway incident. After a very limited inquiry, the Washington
4 State Patrol decided that no further action on Deputy Sprouse's allegations would
5 be taken.

6 At the afternoon conference with Sergeant Smith, on October 24, 2009,
7 Deputy Sprouse told Sergeant Smith that he was feeling harassed and intimidated
8 by the internal investigation concerning the incident report released to *The*
9 *Chronicle*, and in particular that he felt that he, as a potential witness in the
10 Sheriff's matter, was being intimidated. Sergeant Smith advised Deputy Sprouse
11 to contact his Guild attorney for guidance and advice. He further told Deputy
12 Sprouse that he didn't see any facts which would support any criminal acts by any
13 of the command staff, including Chief Brown and Commander Aust. The
14 interview was not recorded and both Sergeant Smith and Deputy Sprouse admit
15 that they could not remember the exact words exchanged between the two.
16 Deputy Sprouse did not reveal that he had called Deputy Prosecuting Attorney
17 Richardson, nor did Sergeant Smith specifically ask Deputy Sprouse if he had
18 discussed it with anyone else other than Detective Sergeant Breen and Sergeant
19 Snaza.

20 Within the next week, based upon an off-hand conversation with a WSP
21 detective, it was learned that Deputy Sprouse had contacted Deputy Prosecuting
22 Attorney Richardson. A further investigation was begun and Deputy Sprouse
23 readily admitted that he had contacted Mr. Richardson after being advised not to
24 talk with anyone by Sergeant Snaza.

25 The further investigation resulted in the termination of Deputy Sprouse.

1 The termination letter, dated January 15, 2010, from Chief Walton to
2 Deputy Sprouse, in summary, cites four reasons for termination: 1)
3 insubordination by disobeying the directive to not discuss the matter with anyone
4 pending the meeting with Sergeant Smith; 2) a disregard of the chain of command
5 by discussing the matter with Deputy Prosecuting Attorney Richardson and not
6 going to supervisory personnel with his complaints prior to doing so; 3)
7 dishonesty and untruthfulness with regard to failing to inform Sergeant Smith that
8 he had contacted the Prosecuting Attorney's Office when meeting with Sergeant
9 Smith on the afternoon of October 24, 2009; and 4) using his official position to
10 retaliate without any basis in fact for his allegations of criminal misconduct by
11 members of the Command Staff, as communicated to Mr. Richardson.

12 With respect to the allegation of untruthfulness and dishonesty, in Deputy
13 Sprouse's meeting with Sergeant Smith, the Commission cannot find by a
14 preponderance of the evidence that Deputy Sprouse was untruthful or dishonest.
15 Both participants in the conversation admit that neither could recall the exact
16 words used and Sergeant Smith further admits that he did not specifically ask
17 Deputy Sprouse who else he had talked to concerning this matter. The allegation
18 in Chief Walton's January 15, 2010 letter to Deputy Sprouse that he deliberately
19 misrepresented facts is not born out by the evidence presented.

20 The allegation that Deputy Sprouse was insubordinate and violated the
21 chain of command depends on whether a Deputy Sheriff in the Lewis County
22 Sheriff's Office has a right to report to the Lewis County Prosecuting Attorney
23 the commission of a crime being committed by other members of the Lewis
24 County Sheriff's Office without informing his supervisors, or doing so in defiance
25 of an order to speak with no one concerning the matter. A Lewis County Deputy

1 Sheriff has taken an oath to support the laws of the state of Washington and if he
2 or she has a good faith belief that a crime is being committed, no one, including
3 his supervisors, can order that deputy to not report the crime to the Lewis County
4 Prosecutor's Office or to condition said report on informing his supervisors. No
5 Lewis County Deputy Sheriff or any other employee subject to civil service
6 protection in the Lewis County Sheriff's Office should ever feel that they cannot
7 make a good faith report of a crime being committed by anyone.

8 That right, however, does not extend to a vindictive or retaliatory report to
9 the Lewis County Prosecutor's Office that has no basis in fact, and we, after
10 considering all of the evidence in the case, have determined that that is what
11 occurred here.

12 Deputy Sprouse testified that he reviewed both the Intimidating a Witness
13 and Tampering with a Witness statutes prior to his making a report to Mr.
14 Richardson on October 24, 2009. Also prior to doing so, he discussed his
15 allegations with Sergeant Breen and Sergeant Snaza and was told that it was their
16 opinion that no crime had been committed. Despite this knowledge and without
17 any basis in fact, he reported these allegations to the Prosecuting Attorney's
18 Office and asked that they be investigated, although he knew at that point that
19 there were no facts to support any type of criminal action by any member of the
20 Command Staff. It is our finding that he did so deliberately and in retaliation for
21 the disciplinary action imposed on him for not properly securing the incident
22 report read by his son and son's girlfriend. It is our further conclusion that this
23 action caused a groundless criminal investigation to occur and was an abuse of his
24 position as a law enforcement officer. This action, in our determination,
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1 irreparably erodes the confidence that the Lewis County Sheriff and his command
2 staff have in Deputy Sprouse.

3 The Lewis County Sheriff structure does not include a separate internal
4 affairs department or anyone equivalent to an inspector general to whom a deputy
5 sheriff may go when he or she believes that misconduct within the Sheriff's
6 Office has occurred. Although the representative of the employees, the Lewis
7 County Sheriff's Guild, can ask that the Lewis County Prosecuting Attorney
8 conduct an investigation, there is no separate entity within the Sheriff's Office
9 who can conduct such an investigation independent of the Lewis County Sheriff.
10 Accordingly, a deputy sheriff, who has a good faith belief that a crime has been
11 committed in the Sheriff's Office has every right to communicate that to a
12 representative of the Lewis County Prosecuting Attorney's Office, whether they
13 qualify under the state or county whistle-blower's law or not.

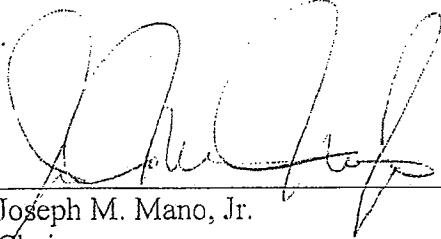
14 While this decision reaches the proper factual and legal conclusion, it is
15 tempting for the Commission to consider reinstatement on equitable grounds.
16 This is not the way to end an honorable thirty-two year career in law enforcement.
17 The powers available to the Commission are grounded in the law and not equity
18 and this decision is based upon our findings of fact as applied to the proper law.

19 CONCLUSION

20 We unanimously find that the Sheriff's Office did not carry its burden of
21 preponderance of the evidence on the allegations that Deputy Sprouse was
22 insubordinate, violated the chain of command, or was untruthful in his meeting
23 with Sergeant Smith. We do unanimously find that the Sheriff has met that
24 burden with respect to the allegation that Deputy Sprouse, with no reasonable
25 basis, communicated a criminal allegation against senior members of the Lewis

1 County Sheriff's Office to the Prosecuting Attorney and did so in retaliation for
2 disciplinary action taken against him previously, and further that that conduct is
3 grounds for serious disciplinary action and therefore the termination was imposed
4 in good faith for just cause.

5 DONE this 27th of April, 2010.

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8 Joseph M. Mano, Jr.
9 Chairman
10 Lewis County Civil Service Commission
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