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D'Agastino v. City of Miami

Supreme Court of Florida - June 22, 2017 - So.3d - 2017 WL 2687694

Police officer filed petition to quash a subpoena issued by city civilian investigative panel (CIP), which was independent body designed to investigate instances of alleged police misconduct, and for a protective order against having to testify in CIP proceeding, and city intervened. Separately, police union brought declaratory action against city challenging the constitutionality of city ordinances empowering CIP to investigate law enforcement officers.

The actions were consolidated. The Circuit Court granted summary judgment in favor of city and CIP. Officer and union appealed. The District Court of Appeal affirmed. Officer and union filed application for review, which was granted.

The Supreme Court of Florida held that:

- Police Officers' Bill of Rights did not expressly preempt ordinances granting CIP authority to investigate and review police misconduct;
- Ordinance granting CIP authority to issue subpoenas was impliedly preempted by Police Officers' Bill of Rights as to police officers; but
- CIP retained authority to issue subpoenas to non-police officers under ordinance.

Police Officers' Bill of Rights did not expressly preempt ordinances granting city civilian investigative panel authority to investigate and review alleged police misconduct, though the Bill of Rights required every law enforcement agency to establish a system for investigating a complaint, required a municipality to forward complaints to an officer's employing law enforcement agency, and carved out exception for Criminal Justice Standards and Training Commission to exercise its authority. Statutory language did not convey preemption with sufficiently explicit language, and to find statutory provisions to be understood as preclusive would require inferences.

Local ordinance granting city civilian investigative panel (CIP), which was independent body designed to investigate and review instances of alleged police misconduct, authority to issue subpoenas to compel testimony from law enforcement officers in connection with investigations and complaints against them was impliedly preempted as to police officers by Police Officers' Bill of Rights, which provided elaborate framework of rights and obligations for interrogating an officer. Objective of Bill of Rights was to protect officers to a degree from certain means of interrogation, and to uphold CIP's authority to issue subpoenas in connections with investigations of an officer's conduct would impermissibly countermand rights conferred by the statute upon the officer.

City civilian investigative panel (CIP), which was independent body designed to investigate and review instances of alleged police misconduct, retained authority to issue subpoenas to non-police officers under local ordinance granting subpoena power, though authority to subpoena law enforcement officers was preempted by Police Officers' Bill of Rights.

Subsequent review of an Internal Affairs investigation of a complaint against a law enforcement

officer by the city civilian investigative panel (CIP), which is independent body designed to investigate and review instances of alleged police misconduct, without the CIP having subpoena power over law enforcement officers, is not inconsistent with the structure of the Police Officers' Bill of Rights.