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Ochoa v. County of Kern

Court of Appeal, Fifth District, California - April 12, 2018 - 231 Cal.Rptr.3d 274 - 18 Cal. Daily Op. Serv. 3429 - 2018 Daily Journal D.A.R. 3297

Former deputy sheriff filed petition for a peremptory writ of mandate, alleging that county and sheriff failed to complete an administrative investigation of his alleged misconduct and notify him of the proposed disciplinary action within one year of discovery in violation of the Public Safety Officers Procedural Bill of Rights Act (POBRA).

The Superior Court denied the petition, and former deputy sheriff appealed.

The Court of Appeal held that POBRA limitations began when sergeant became aware of harassment claim against deputy sheriff through memorandum and commenced an inquiry.

Limitations period under Public Safety Officers Procedural Bill of Rights Act (POBRA) statute prohibiting punitive action if an investigation is not completed within one year of discovery by a person authorized to initiate an investigation began when sergeant became aware of harassment claim against deputy sheriff through memorandum and commenced an inquiry to determine the nature of the complaint by attempting to contact claimant; although sergeant could not initiate internal affairs investigation, once sergeant launched inquiry, written reprimand could have resulted, and inquiry in fact led to punitive action, due to sergeant’s forwarding of interoffice memoranda to commander, who presumably relayed the information to chief deputy who authorized investigation that led to deputy sheriff’s termination.

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