

Bond Case Briefs

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EMPLOYMENT - INDIANA

Peru City Police Dept. v. Martin

Court of Appeals of Indiana - September 3, 2013 - N.E.2d - 2013 WL 4714275

Former police officer sought review of decision of city public safety board terminating his employment for alleged excessive force and conduct unbecoming an officer.

The Court of Appeals held that city public safety board's decision to terminate officer for use of excessive force and conduct unbecoming an officer was supported by substantial evidence.

In review of a municipal safety board's decision, an appellate court does not conduct a de novo trial, but defers to the fact-finding of the agency, so long as the findings are supported by substantial evidence. "Substantial evidence" means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Neither the trial court nor the appellate court is permitted to reweigh the evidence or reassess witness credibility.

An aggrieved party who is attacking the evidentiary support for the agency's findings bears the burden of demonstrating that the agency's conclusions are clearly erroneous. An arbitrary and capricious decision is one which is patently unreasonable and made without consideration of the facts and in total disregard of the circumstances and lacks any basis which might lead a reasonable person to the same conclusion.

Officers were dispatched to nursing home after nurse called 911 and requested assistance to transport a combative patient to a hospital. After ordering the staff to stay away, the officers entered the room of a sixty-four-year-old Alzheimer's patient. They found patient sitting in a chair and staring straight ahead. He was naked except for his socks. The officers commanded patient to get on a gurney but he did not comply. Rather, he began "shuffling" toward officer.

Officer applied stun gun to patient five times with a total deployment time of 31 seconds, although patient was handcuffed after third stun gun application.