

Bond Case Briefs

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Winthrop Retirement Board v. LaMonica

Appeals Court of Massachusetts, Suffolk - September 9, 2020 - N.E.3d - 98 Mass.App.Ct. 360 - 2020 WL 5372164 - 2020 Employee Benefits Cas. 342,878

Police officer sought review of city retirement board decision to forfeit pension based on 1995 conviction for filing false income tax returns that did not disclose income received for cover up of video poker machine operation.

The Boston Municipal Court vacated decision. Board filed certiorari action. The Superior Court Department granted officer's motion for judgment on the pleadings. Board appealed.

The Appeals Court held that:

- Res judicata did not apply to 2016 hearing on pension forfeiture when prior reviews did not constitute final adjudication;
- Police officer's laches defense could not run against public rights;
- Board could consider presentence report to conclude payments were linked to capacity as police officer; and
- There was substantial evidence of factual link between officer's position and conviction.