

COURTS DETERMINE PBA MEMBER WAS UNLAWFULLY RETALIATED AGAINST AND WRONGFULLY TERMINATED

BY JOHN C. MIDGETTE, NCPBA EXECUTIVE DIRECTOR

On August 19, 2014, the North Carolina Supreme Court denied a petition by the town of Taylortown, N.C., where the town sought to overturn a jury verdict awarded to PBA member and former Taylortown Chief of Police Tim Blakeley. The Supreme Court's rejection of Taylortown's petition and argument ends a seven-year battle whereby Blakeley and PBA fought through the superior court, the North Carolina Court of Appeals and the North Carolina Supreme Court to right the egregious wrong committed by the town of Taylortown and its treatment and termination of Blakeley.

Chief Blakeley's case was tried before a superior court jury for eight days in July 2011, resulting in a verdict in the sum of \$291,000.00 for unlawful wrongful termination in violation of public policy. The jury heard a long running saga whereby Taylortown officials historically subjected their chief of police to highly unusual practices relating to enforcement actions by Taylortown police officers. When Chief Blakeley arrived and began service in Taylortown, he brought with him a personal and professional goal to successfully fight major gang and drug related crime in this small town adjacent to the resort area of Pinehurst, N.C.

Chief Blakeley began initiating substantial improvements to the small and broken police department. He personally engaged in upgrading the police department offices, computers, and vehicles. Despite these efforts, Chief Blakeley was met with more than the usual small town politics.

For example, the town was attempting to use a small ATV Mitsubishi recreational type vehicle on the public highways, which after investigations, was determined to be expressly in violation of



PBA supported member Tim Blakeley all the way to the North Carolina Supreme Court to achieve a successful resolution of his wrongful termination case.

North Carolina law. Despite numerous opinions from the attorney general and other law enforcement agencies that the practice was unlawful, the town, speaking through its mayor, Ulysses Barrett, defied the law and took the position that the law did not matter. In fact, the mayor testified under oath at trial after being caught in a taped recorded meeting stating that there are some laws that he was not going to obey and that he would tell any attorney or judge that.

Taylortown was being subjected to an intense narcotics trade until our member attempted to target the drug distributors pursuant to his law enforcement plan of action. Subsequently, strange things began occurring in connection with those

efforts. Blakeley was subjected to communications and pressures from town officials to disclose information from open and ongoing criminal cases, including ongoing drug investigations. He was pressured by town officials to identify an informant in a particular case. While serving on the town board, one of the town commissioners was charged with a drug offense. Following the chief's resistance to such pressures, the town's budget for narcotics enforcement was suddenly withdrawn.

Despite being subjected to numerous attempts of intimidation, our member never capitulated to the threats from his superiors or wavered in upholding his sworn law enforcement duties. Chief Blakeley was terminated in 2007 because of his conduct that was protected by North Carolina public policy. His oath of office, as codified through the North Carolina Law Enforcement Officer Code of Ethics, provided the public policy basis that ultimately enabled Blakeley to win his case.

Several legal determinations made in the case at the appellate level have created substantial precedent that will benefit other law enforcement officers under similar circumstances. In particular, under the doctrine of wrongful discharge, it had been somewhat unclear as to whether or not a plaintiff employee could recover damages for future lost wages and emotional distress as result a of wrongful termination.

The North Carolina Court of Appeals, in an opinion through Judge Robert C. Hunter Jr., said, "...that, in the majority of jurisdictions that recognize the common law tort of wrongful discharge for at-will employees, plaintiffs may recover for lost wages, future lost earnings, and emotional distress... Moreover, we find no reason why these types of

tort damages would not be available to a plaintiff seeking relief for wrongful discharge in violation of public policy.”

This opinion provides an extraordinary precedent to protect law enforcement officers for performing their duties and refusing to succumb to wrongful activity while establishing case law to recover not only lost wages, but also front pay (future lost earnings), and compensation for emotional distress.

A much more complete understanding of this case can be found in the published decision of the North Carolina Court of Appeals, *Timothy Blakeley v. Town of Taylortown*, 756 S.E.2d 878 (2014), which can be found online through the North Carolina Courts website at www.nccourts.org.

Unfortunately, this entire case could have been avoided if Chief Blakeley, as a local law enforcement officer, had been afforded the same whistleblower protection that is currently provided to state law enforcement and correctional officers.

Ironically, the North Carolina Police Chiefs Association made the disappointing decision to join the North Carolina Sheriffs Association in opposing House legislation that would have provided whistleblower protection for local officers. (See House Bill 643, 2013 General Assembly Long Session.) Following false and misleading information provided by these two organizations, the bill was defeated by a vote of 54 to 56.

Beginning with the 2015 Session of the North Carolina General Assembly, PBA will use the *Blakeley* decision in an attempt to challenge similarly poor positions by police management groups when whistleblower protection will again be introduced.

PBA is pleased to see our member finally reach a favorable outcome after this lengthy litigation process. At the end of the day, some justice was finally done, resulting in the vindication of a law enforcement officer.

The case was tried by PBA attorneys J. Michael McGuinness, the McGuinness Law Firm and John Roebuck. 🍀