

H.E. NO. 2000-15

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF TINTON FALLS,

Respondent,

-and-

Docket No. CI-H-99-19

GERARD DOLAN,

Charging Party.

Appearances:

For the Respondent, Appruzzese, McDermott, Mastro & Murphy,
attorneys
(Robert J. Merryman, of counsel)

For the Charging Party, Loccke & Correia, attorneys
(Joseph Licata, of counsel
Merick H. Limsky, on the brief)

HEARING EXAMINER'S REPORT
AND RECOMMENDED DECISION

On October 9, 1998, Gerard Dolan (Charging Party), filed an unfair practice charge with the New Jersey Public Employment Relations Commission alleging that the Borough of Tinton Falls (Borough) violated the New Jersey Employer-Employee Relations Act, specifically N.J.S.A. 34:13A-5.4a(1), (3) and (5).^{1/} Dolan

^{1/} These provisions prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees

Footnote Continued on Next Page

alleged that the Borough did not promote him in July 1998, and changed its table of organization from five to four sergeants to avoid promoting him in retaliation for his exercise of protected activity; that he was bypassed for promotion in July 1998 in retaliation for his opposition to the ticket quota system and related overtime eligibility standards; and that shortly after the expiration of a promotional list, the Borough, in 1998, discriminated against him for engaging in protected activity by promoting Glenn Rogers, an allegedly less qualified corporal, to sergeant.

The Charging Party primarily seeks a finding that the Borough violated the Act by failing to promote him rather than Rogers to sergeant in July 1998. Dolan seeks to be promoted to sergeant, retroactive to July 1998. However, he has not asked to displace Rogers.

A Complaint and Notice of Hearing (C-1) was issued on February 9, 1999. The Borough filed an Answer on February 19, 1999 relying on its statement of position dated November 12, 1998 (C-2). The Borough denied violating the Act; claimed that Dolan's union activities played no role in its decision to promote Rogers;

1/ Footnote Continued From Previous Page

in the exercise of the rights guaranteed to them by this act. (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative."

that Dolan had no claim for a promotion at that time; and noted that the individuals involved in promoting Rogers to sergeant had no direct involvement in the ticket quota system and overtime eligibility issues.

Hearings were held on November 30 and December 1, 1999.^{2/} The proceeding was then pended until late January 2000 to allow the Charging Party to determine if it would present rebuttal testimony. The Charging Party chose not to present additional witnesses, but on January 26, 2000, it filed an amended charge and a motion seeking to amend the complaint. The amended charge alleged that Dolan was passed over for promotion in December 1999. The Respondent opposed the motion to amend. By letter of February 8, 2000, I denied the motion and refused to amend the complaint because the amended charge would have dramatically changed the character and content of the original hearing which had already been completed.

Both parties filed post-hearing briefs by May 5, 2000.

Based upon the entire record, I make the following:

FINDINGS OF FACT

Gerard Dolan is a police officer hired by the Borough on January 11, 1983 (1T21). He was assigned to a corporal position in December 1990 when that position was created. He served some

^{2/} The transcripts will be referred to as 1T and 2T respectively.

time in the detective unit but has primarily worked in the patrol division. He had not worked in the traffic division and had no K-9 experience (1T22, 1T126, 1T158). The Borough is not a civil service community and has not consistently conducted examinations for promotions or consistently promoted from lists (2T53), but it did conduct an examination and create a sergeants list for promotion in the mid 1990s (1T21; 2T110). In late 1994 or early 1995, Dolan took the sergeants exam and was ranked fifth on the list that was posted on February 27, 1995 and effective until February 27, 1998 (CP-3; 1T53, 1T112). The top three names on the list were promoted in March 1995 (1T54; 2T87), and the fourth person on the list was promoted in June 1997 (1T112). Dolan was not promoted and the list expired as scheduled on February 27, 1998, and was not extended (1T112-1T113; 2T88). The PBA did not grieve over the expiration and refusal to extend the sergeant list (1T132).

2. Glenn Rogers was hired by the Borough as a police officer approximately one year before Dolan, but they became corporals at the same time (1T116-1T117, 1T156; 2T135). Rogers had served in the detective bureau for several years and was then transferred to the patrol division. Since Rogers had been a K-9 instructor while serving in the Army he was selected to create a K-9 service for the Borough in the early to mid 1990's and was transferred from patrol to K-9 at that time (2T58). Although Rogers was eligible to take the sergeants exam in late 1994 early

1995, he voluntarily chose not to take the exam for the benefit of the police department in order to continue establishing the K-9 unit and make it available to the community (2T57, 2T146).

3. Prior to 1994, the commanding officer of the police department was the chief of police who was also responsible for the overall operation of the department. But in early 1994 the Borough restructured the department by eliminating the chief's title, and creating the rank of major to serve as commanding officer, and the civilian position of director of public safety to oversee the department. The major/commanding officer is expected to make personnel decisions, but promotional decisions are made through the major's recommendation to the director of public safety (2T54-2T55). Anthony Muscillo, the Borough's Business Administrator also assumed the position of Director of Public Safety in early 1994 (1T128; 2T98).

4. Robert Jan Tausch was employed by the Borough as a police officer in 1974. Over the years he was promoted to the ranks of sergeant, lieutenant and captain without taking a promotional examination (2T51-2T54).

Jan Tausch became a captain on March 1, 1995, but he had no input into the sergeant promotions that were made in 1995 and 1997 (2T97-2T99). He was not the commanding officer when the sergeant list expired in February 1998 (2T58). Director Muscillo made the decision not to extend the list (2T88).

On July 1, 1998, Jan Tausch was promoted to major/commanding officer of the department (2T54). He did not recommend the sergeant list be extended at that time because he wanted others to have a chance at promotion and he preferred recommending promotions through the interview process rather than through an examination because it gave the interviewer a better opportunity to judge a candidate on their merit (2T88, 2T115, 2T126).

Jan Tausch had long admired Rogers' commitment to the department. He rated Rogers as one of the most outstanding detectives in department history; he believed that Rogers donated his time and services to the department without compensation "second to none"; he rated Rogers the top corporal in the department (2T57, 2T70), and he believed Rogers performance as a K-9 officer was exemplary (2T60). Jan Tausch knew that Rogers could not be promoted until after the list expired (2T136). He recognized that several less senior corporals had been promoted to sergeant over Rogers because he had chosen not to take the exam. Based upon that, and upon Rogers' commitment, experience and seniority, Jan Tausch recommended to Muscillo in July 1998, just after his (Jan Tausch) own promotion, that Rogers be promoted to sergeant (1T113; 2T57-2T58, 2T144).

Jan Tausch told his senior staff, including Capt. Turning, Lt. Trevena and other lieutenants, of his intention to promote Rogers. They were all in agreement, but they were not

involved in the decision to make the recommendation. Jan Tausch did that himself (2T55-2T56, 2T108-2T109). Major White had no role in Rogers' promotion (1T139). Dolan had no knowledge of how Rogers' promotion came about, and no knowledge if Lt. Turning had any role in the promotion decision (1T176, 1T203).

Jan Tausch also recommended Rogers for promotion almost immediately upon becoming the Major because he believed Rogers should have been promoted years ago and felt the promotion was justified and long overdue (2T58, 2T72). He did not consider anyone else for promotion to sergeant at that time because no vacancy had been created in the department for such a position by a promotion or a retirement (2T71-2T72), and there was no justification for creating a sergeant position in the traffic division at that time (2T75; 2T142-2T143). Based primarily on Jan Tausch's recommendation, Mayor McNamara made the final decision to promote Rogers (1T131). The PBA did not grieve over the manner in which Rogers was promoted (1T132). Initially, Rogers did not supervise other officers after receiving his promotion (1T114), but he now supervises a patrolman (1T159, 1T172).

5. The record shows that from 1989 until June 1997 there were five sergeants and two lieutenants in the department (1T107, 1T134). The September 1996 table of organization (CP-37) shows there were three sergeants in the Patrol Division (Sgts. Hampton, Burton and Nase) one for each squad, one sergeant in the Traffic Division (Sgt. Peterson), and one sergeant in the Investigation

(Detective) Division (Sgt. Milano). Those sergeants supervised one or more patrolmen or detectives. Sgt. Peterson only supervised two patrolmen in the Traffic Division. CP-37 also showed there was one lieutenant (Lt. Trevena) in the Operations Bureau which supervised both Patrol and Traffic, and one lieutenant (Lt. Turning) in the Special Services Bureau which supervised the Investigations and other Divisions. There was one captain (Capt. Jan Tausch) and the Major (Maj. L.D. White). The K-9 Division which included only Glenn Rogers, who was a corporal at that time was included in the Operations Bureau (1T105, 1T110).

On June 9, 1997, Major White announced three promotions (CP-38). Sergeant Peterson was promoted to lieutenant in the Traffic Division essentially performing the same job and supervising the same two officers as he did while a sergeant. Sergeant Hampton was promoted to lieutenant thereby leaving the Patrol Division, and Corporal MacDonald was promoted to sergeant to replace Hampton as a patrol squad leader. MacDonald was a former PBA president (1T145). A new table of organization was issued effective August 1, 1997 (R-1). It showed some reorganization in the department. The bureau designations were eliminated; Lt. Peterson became the Traffic Safety Commander supervising two traffic safety patrolmen; Lt. Trevena became the Patrol Division Commander supervising the three patrol squads and K-9; Lt. Hampton became the Auxilliary Services Commander; and, Lt. Turning became the Special Services Commander. Unlike the

1996 table of organization (CP-37), the 1997 table (R-1) contained only four sergeants, three in patrol and one in investigations, but now contained four instead of two lieutenants. There was no longer a sergeant in traffic since St. Peterson became a lieutenant but performed the same duties as before (1T106, 1T134-1T137; 2T143). The PBA did not grieve over the reduction of sergeant positions (1T132).

The department contained four sergeant positions from June 1997 until June 1998 when Rogers was promoted to sergeant (1T111). The Charging Party is not seeking to have Rogers removed from his sergeant position (1T130). Dolan did not claim he should have been promoted to sergeant in the K-9 unit (1T159); he thought there was a sergeant opening in the traffic division (1T125). But as of the close of this record Major Jan Tausch did not believe there was any justification for placing a sergeant in the traffic unit below Lt. Peterson because Peterson was still doing the same things he had done as a sergeant, thus, there would be nothing more for a sergeant to do (2T75, 2T143, 2T179).

6. Dolan has been active in the PBA for many years. He was the local president from 1987-1989, served as treasurer, secretary, and on pay committees in the early nineties, and served as a PBA delegate from 1995 to 1999 and processed several grievances (1T23-1T24, 1T162).

In November 1994, Capt. White implemented a productivity/ticket quota standard affecting evaluations (CP-1).

The union decided to take legal action against the quota system and in October 1995 Dolan heard Lt. Turning say the Borough would not move on the issue (1T27-1T32). At a PBA meeting in November 1995 attended by Lt. Turning who was still a PBA member, Dolan told Turning that the quota system would be raised with the State PBA. Turning did not think the PBA had the funds to proceed with a lawsuit (1T33-1T34). By letter dated December 24, 1995 (CP-12), Dolan asked the State PBA President for his assistance in challenging the quota system.

By letter of December 27, 1995 (CP-13), Turning, believing he was a union trustee, asked local PBA President Jared Stevens for access to the PBA's bank records and investments to conduct an audit presumably to see if it had the financial resources to challenge the quota system. Believing Turning was more supportive of the Borough's view on quotas, neither Dolan nor Stevens wanted Turning to have access to PBA financial records (1T45). Stevens asked Dolan to find out from the State PBA whether Turning could be prohibited from reviewing the union's books, and by letter of February 3, 1996, Stevens informed Turning he did not have the right to conduct an audit (1T44-1T47).

In late January or early February 1996, the State PBA advised Dolan that it would not finance a lawsuit over the ticket quota but was willing to make the matter a public issue. Dolan discussed the matter with Major White, and in late 1996 the ticket quota system was changed to an averaging method (1T48-1T49). Jan

Tausch had little if any involvement in the ticket quota matter (1T140), but he did favor productivity standards (2T122, 2T126). Dolan did not file a grievance regarding the ticket quota matter (1T137-1T138).

7. By memorandum of October 9, 1995 (R-3), Lt. Turning reprimanded Corporal Dolan for failing to properly supervise a patrolman under his command, and for filing a sub-standard report (1T150-1T153). On January 2, 1996, Major White charged Dolan with being at fault in a motor vehicle accident on November 19, 1995 (CP-15). On January 3, 1996, a preliminary notice of disciplinary action was issued against Dolan (CP-16) regarding the accident (1T182). A hearing was held regarding that matter on May 23, 1996, and a final notice of disciplinary action was issued on October 7, 1996 implementing a two day suspension against Dolan (CP-29). Dolan knew that other officers had been disciplined for being at fault in such accidents, but did not know of any officers who were suspended for such action (1T100).

On February 7, 1996, just four days after PBA President Stevens informed Lt. Turning he could not audit the PBA, Lt. Turning issued reprimands to both Stevens and Dolan (CP-19, CP-20) for allegedly failing to turn in a radar control sheet (1T82-1T88). For several months prior to February 1996, Dolan, as a PBA delegate, had been given a day off once a month to attend a PBA meeting. Apparently the practice was for delegates to have that day off (2T7). On February 15, 1996, Lt. Turning sent a

memorandum to Sgt. Hampton (CP-25), Dolan's immediate supervisor, directing him to have Dolan report to work on February 20, a day he was scheduled to attend the next PBA meeting, and directing Sgt. Hampton on how the matter should be handled in the future (1T94-1T96).

By memorandum of February 28, 1996 (CP-26), Lt. Turning asked Dolan to provide him with the itinerary of events for the upcoming PBA mini-convention that Dolan would attend. Dolan had not been asked to provide such information in the past (1T97-1T99), but Turning did not deny Dolan's request to attend that convention (1T168).

By letter of May 31, 1997 to Lt. Trevena, Dolan complained about the lack of police schooling he had received. Trevena responded on June 3, 1997 noting Dolan had attended an FBI school in 1996, and a Penn State school in 1997 and he concluded by asking Dolan to submit a list of schools he would like to attend (CP-30) (1T102-1T104). Dolan went to one supervisory training course in 1997 and one in 1998 before Rogers was promoted (1T104).

During the years he was a PBA delegate (1995-1999), Dolan received at least two commendations, one from Lt. Turning and one from Lt. Trevena. Dolan said he was recognized when his performance was good (1T162-1T163). Jan Tausch has never heard any ranking officer make negative comments about Dolan's PBA activities (2T173).

8. In late 1995, while preparing information for a physical exam, Dolan noted he was under stress in part because he believed he was being harassed by Lt. Turning (1T63). By memorandum of November 7, 1995 from Major White (R-2), Dolan was ordered to meet with a psychiatrist which he did, and he was ordered to meet with Director Muscillo regarding the psychiatric examination (1T148-1T150). Dolan met with Muscillo on a day he was scheduled off, thus, he filed a request for compensatory time. Lt. Turning denied the request and Dolan filed a grievance over the matter (1T63-1T65; CP-9). The grievance was subsequently denied by Major White (CP-10) and by Director Muscillo (CP-11) (1T66).

On February 8, 1996, Dolan filed a grievance over the eligibility for supplemental overtime for DWI arrests (1T67; CP-21). Major White did not agree with the grievance (CP-22), but the parties clarified certain issues related thereto (CP-23, CP-24).

On June 30, 1997, Lt. Trevena posted the criteria he intended to use to fill a vacant corporal position (CP-32). As PBA delegate, Dolan, shortly thereafter, sent Trevena a letter (CP-33) raising several questions about the criteria. He was concerned about why the department changed its selection method for corporal when the PBA vice-president was up for the position. Trevena responded to all of Dolan's questions on July 8, 1997 (CP-34; 1T72-1T80).

9. Rogers was evaluated five times between July 1996 and June 1998. All of those evaluations contained mostly above average marks and no below average marks (CP-51, CP-52, CP-53, CP-54, CP-55). From as early as November 9, 1994 through at least May 28, 1998, the department received numerous letters of gratitude from other jurisdictions complimenting the efforts of then Corporal Rogers and his dog in their K-9 duties (R-5H through R-5JJ) (1T118-1T120; 2T61-2T64; 2T148-2T157).

Dolan was evaluated nine times between April 1994 and July 1998. Most of the evaluations contained good or average marks (CP-41, CP-42, CP-43, CP-44, CP-45, CP-46, CP-47, CP-48, CP-49). The April 1994 (CP-41) and January 1995 (CP-43) evaluations noted some excitability in Dolan's temperment; the October 1995 (CP-44) evaluation noted some improvement needed in two areas; the January 1997 (CP-47) evaluation noted an increase in the use of sick leave; and the July 1998 evaluation (CP-49) by Sergeant MacDonald noted in pertinent part that Dolan:

...improve on and display a positive attitude about the department, particularly its administration, and show support for accomplishing the goals and objectives of the agency, particularly in front of subordinates.

ANALYSIS

Although the Charging Party alleged violations of 5.4a(1) and (5) , the a(3) allegation is the real issue in this case: did the Borough discriminate/retaliate against Dolan for engaging in protected activity? The standard for deciding a(3) cases was

established by the New Jersey Supreme Court in In re Bridgewater Tp., 95 N.J. 235 (1984). There the Court held: "no violation will be found unless the charging party has proved, by a preponderance of the evidence on the entire record, that conduct protected by the Act was a substantial or motivating factor in the adverse action. This may be done by direct or circumstantial evidence showing 1) that the employee engaged in activity protected by the Act, 2) that the employer knew of this activity, and 3) that the employer was hostile toward the exercise of the protected activity." Id. at 246.

If the employer did not present evidence of a motive not illegal under our Act or if its explanation has been rejected as pretextual, there is sufficient basis for finding a violation without further analysis. Sometimes, however, the record demonstrates that both motives unlawful under our Act and other motives contributed to a personnel action. In these dual motive cases, the employer will not have violated the Act if it can prove, by a preponderance of the evidence on the entire record, that the adverse action would have taken place absent the protected conduct. Id. at 242. This affirmative defense, however, need not be considered unless the charging party has proved, on the record as a whole, that anti-union animus was a motivating or substantial reason for the personnel action. Conflicting proofs concerning the employer's motives are for the hearing examiner, and then the Commission to resolve.

The decision on whether a Charging Party has proved hostility in such cases is based upon consideration of all the evidence, including that offered by the employer, as well as the credibility determinations and inferences drawn by the hearing examiner. Rutgers Medical School, P.E.R.C. No. 87-87, 13 NJPER 115, 116 (¶18050 1987).

The Charging Party established the first two standards, but not the third. It sought to make the focus of Roger's promotion into a case about Dolan, thereby necessitating an analysis of why Dolan was allegedly bypassed for or denied a promotion. But the promotion was not about denying or depriving Dolan; it was only about rewarding Rogers. It was Rogers who had sacrificed his own time and advancement opportunities to establish the K-9 unit, which has been uniformly praised in surrounding communities. In fact, no decision was made to deny Dolan or anyone else a promotion at that time. Jan Tausch did not decide between Rogers and Dolan. Dolan had no K-9 experience, this was simply Jan Tausch's way to thank Rogers for his K-9 work.

In order to prove hostility the Charging Party argued that Turning and Trevena took action against Dolan for exercising protected activity and that I should infer therefrom that the "department" took action to deny him a promotion. That argument lacks merit. Even if I assume--without finding--that Turning and Trevena were hostile toward Dolan because of his union activity, no facts establish a nexus between their actions and Rogers' promotion,

and no evidence suggests that Jan Tausch shared or was influenced by any animus they may have had. Accordingly, I do not infer or impute any hostility they may have had to Jan Tausch. Compare, Township of Washington, P.E.R.C. No. 99-6, 24 NJPER 412 (¶29190 1998); Neptune Twp. Bd. Ed., P.E.R.C. No. 98-130, 24 NJPER 234 (¶29110 1998); City of Millville, P.E.R.C. No. 98-99, 24 NJPER 120 (¶29061 1998).

Jan Tausch and not Turning or Trevena decided to promote Rogers; no evidence suggests that Jan Tausch's decision included an intention to deny Dolan a promotion. Muscillo and McNamara merely approved his recommendation and there was no evidence they were influenced by Turning or Trevena or harbored union-animus. I found Jan Tausch to be a reliable and credible witness. There was no evidence of there ever having been any type of hostility or animosity between he and Dolan, no reliable evidence that he (Jan Tausch) harbored union animus, and no evidence of a nexus between Dolan, and the decision to promote Rogers. I believe Jan Tausch made the decision to promote Rogers independent of Turning, Trevena, Muscillo, McNamara and anyone else, and that his decision was nothing more than a special promotion for Rogers for doing exceptional work. I further credit Jan Tausch's explanation that he would not have considered Dolan or anyone else for a sergeant promotion in the traffic division because there was no need for a sergeant in that division at that time.

This case is similar to Township of Washington. There, a union organizer had been laid off by decision of the business

administrator. The Commission found that the mayor was hostile to the employee because of his union activity but that the business administrator had not been aware of the employee's union activity. The Commission dismissed the complaint, finding that the union had to prove more than the mayor's hostility, it had to prove a nexus between that hostility and the layoff. Similarly, here there was no nexus between any hostility Turning and/or Trevena may have toward Dolan, and Jan Tausch's decision to promote Rogers, nor any nexus between Turning and/or Trevena and Jan Tausch's explanation for why there was no sergeant vacancy in the traffic division.

At the close of the Charging Party's case at hearing, the Borough moved to dismiss the complaint which was subsequently denied. But during the Charging Party's response to the motion it referred to the decision in Borough of Tinton Falls, H.E. No. 89-21, 15 NJPER 129 (¶20058 1989), adopted P.E.R.C. No. 89-108, 15 NJPER 279 (¶20117 1989).

In that case, the Commission found that the Borough violated the Act by, ironically, failing to promote then-patrolman Turning to sergeant. Turning had been PBA president and an active PBA representative. He was succeeded as president by Dolan. The Commission found that the Borough unlawfully failed to promote Turning at least in part based upon a recommendation for promotion by then Lt. Jan Tausch but which included remarks that Turning's PBA positions and his challenge to the administration was his only "tarnished area" 15 NJPER at 131.

I make no judgment nor draw any inferences from the findings in Tinton Falls. Those findings were made more than ten years ago and are too remote in time to constitute the basis for finding that Jan Tausch or the Borough acted with animus here. See Borough of Glassboro, D.U.P. No. 93-14, 18 NJPER 511 (¶23237 1992). There was no timely evidence in the instant case that Jan Tausch exhibited hostility toward the exercise of protected activity in general or in any capacity to Dolan in particular.

The Charging Party raised other issues in its post-hearing brief. Relying on evidence regarding actions by Turning and Trevena it argued that it had met its prima facie burden under Bridgewater thereby shifting the burden to the Borough to prove it would have promoted Rogers regardless of any hostility toward Dolan. Had the Charging Party made its case, the burden would have shifted, but the Charging Party never met its own burden to prove hostility by the decision makers in this case. As the Commission explained in Rutgers, the decision about whether the Charging Party met its burden is based on all the evidence presented, not just evidence presented by the Charging Party. Here, having credited Jan Tausch, I found that Rogers was promoted for his exemplary work, that it was not in reaction to Dolan's exercise of protected activity, and that Dolan was not considered for promotion because there was no other sergeant position available at that time. Based thereon, the Charging Party did not prove its case. But even if the burden shifted, the Borough demonstrated that Jan Tausch would still have recommended Rogers' promotion for legitimate reasons.

The Charging Party also argued that the Borough unlawfully abolished the promotional list and changed the practice for making promotions. But the list was not abolished, it expired, and there was no consistent established practice that the Borough promoted only from an exam list, and since it was not a civil service community, the Borough was not otherwise obligated to promote from a list. Additionally, the Charging Party, as an individual, lacks standing to pursue the a(5) allegation of a change in practice. N.J. Tpk. Auth., P.E.R.C. No. 81-64, 6 NJPER 560 (¶11284 1980), aff'd. NJPER Supp.2d 101 (¶85 App. Div. 1981); Hoboken Bd. Ed., D.U.P. No. 90-7, 17 NJPER 92 (¶22044 1990).

Accordingly, based upon the above findings and analysis, I make the following:

CONCLUSIONS OF LAW

The Borough did not violate 5.4a(1), (3) or (5) of the Act either by not considering Gerard Dolan for promotion in July 1998, or by promoting Glenn Rogers to sergeant.

RECOMMENDATION

I recommend the complaint be dismissed.

Arnold H. Zudick
Senior Hearing Examiner

Dated: June 29, 2000
Trenton, New Jersey