

IN THE COURT OF APPEALS OF IOWA

No. 1-825 / 11-0442
Filed December 21, 2011

GREGORY KOENIGHAIN,
Petitioner-Appellant,

vs.

**CIVIL SERVICE COMMISSION
OF CEDAR RAPIDS, IOWA,**
Respondent-Appellee.

Appeal from the Iowa District Court for Linn County, Marsha Beckelman,
Judge.

A police officer brought action challenging the city civil service
commission's decision discharging him. The district court upheld the discharge,
and the police officer appeals. **AFFIRMED.**

William H. Roemerman of Crawford, Sullivan, Read & Roemerman, P.C.,
Cedar Rapids, for appellant.

Mohammad H. Sheronick, Cedar Rapids, for appellee.

Considered by Danilson, P.J., and Tabor and Mullins, JJ.

DANILSON, P.J.

A police officer, Gregory Koenighain, brought an action challenging the Cedar Rapids Civil Service Commission's affirmance of his August 21, 2007 discharge for misconduct detrimental to the public service. The district court upheld the discharge following a trial de novo.

On appeal, Koenighain contends the district court erred in finding: (1) he engaged in misconduct in connection with "the Lunde matter"; (2) he made false statements concerning the events at Cedar River Paper; and (3) he "knowingly . . . by color of the person's office and in excess of authority . . . require[d] any person to do anything or refrain from doing any lawful thing." Koenighain also contends the court erred in imposing the sanction of discharge. He asks that he be reinstated, and if this court rejects some of his arguments, impose a sanction short of discharge.

Review of the decision of the civil service commission under Iowa Code section 400.27 is a trial anew in the district court, limited to the specification of charges made to the commission pursuant to section 400.22.¹ *Mahaffey v. Civil Serv. Comm'n*, 350 N.W.2d 184, 187 (Iowa 1984).

The trial de novo . . . "normally permit[s] the district court to select [from] the same remedies that were available before the commission." "Throughout the trial court and appellate court proceedings, the commission has the burden of showing that the discharge was statutorily permissible," and we give no weight to or presumption in favor of the commission's determination.

Lewis v. Civil Serv. Comm'n, 776 N.W.2d 859, 864 (Iowa 2010) (citations omitted).

¹ All references are to the code in effect at the time of discharge—the 2007 Iowa Code.

We review de novo the decision by the district court. Iowa Code § 400.27; *Lewis*, 776 N.W.2d at 861. We give weight to the court’s findings but are not bound by them. *Lewis*, 776 N.W.2d at 861. Our review is confined to the record made and issues raised in the district court. *Dolan v. Civil Serv. Comm’n*, 634 N.W.2d 657, 662 (Iowa 2001). “[W]e independently construe the factual record as a whole to determine if the [] discipline was warranted.” *City of Des Moines v. Civil Serv. Comm’n*, 513 N.W.2d 746, 748 (Iowa 1994) (emphasis omitted).

We have thoroughly reviewed the record. The district court wrote extensive findings of fact and conclusions of law with which we agree.² It would unduly lengthen this opinion—and add little to our jurisprudence—to recount further detail of all the facts that support and detract from the district court’s findings and conclusions.

Upon our de novo review, we initially note our agreement with the district court that Koenighain “failed to exhibit candor” in his testimony at trial. We reject Koenighain’s contention that “the district court erred when it found that Koenighain engaged in misconduct in connection with the Lunde matter.” We find Koenighain made false statements concerning the events at Cedar River Paper. Finally, the record supports the district court’s finding that Koenighain “knowingly . . . by color of the person’s office and in excess of authority . . . require[d] any person to do anything or refrain from doing any lawful thing”:

² With one exception: we take issue with the district court’s findings under subheading “4. Failure to take proper action . . .” to the extent the court (1) states the officers were required to have a search warrant prior to speaking to Lunde and (2) criticizes the officers having failed to *Mirandize* Lunde during the ride to the police station. Nothing in this record indicates the need for a warrant as Lunde voluntarily consented to the officers entering and looking around in his apartment and voluntarily spoke with them.

Koenighain was acting in his official capacity when he participated in and supported another officer's intimidation of an individual for that officer's personal reasons, knowing there was no basis for the threatened arrest if the individual did not stay away from the other officer's grandson. His characterization of that encounter as merely offering the person "advice" is belied by the record.

"[I]n determining whether dismissal is warranted, 'we must remember the primary objective of section 400.19 is to protect the public interest.'" *Lewis*, 776 N.W.2d at 864 (quoting *Dolan*, 634 N.W.2d at 664). "Since peace officers are charged with a public trust, the public has every right to expect these officers to conduct themselves with good character, sobriety, judgment and discretion." *Sieg v. Civil Serv. Comm'n*, 342 N.W.2d 824, 830 (Iowa 1983); see also *Civil Serv. Comm'n v. Johnson*, 653 N.W.2d 533, 541-43 (Iowa 2002) (discussing importance of truthfulness in area of law enforcement and noting a number of cases in which courts have found discharge to be an appropriate sanction where a police officer has been untruthful).

We affirm Koenighain's termination.

AFFIRMED.