

STATE OF MICHIGAN
COURT OF APPEALS

POLICE OFFICERS ASSOCIATION OF
MICHIGAN,

UNPUBLISHED
August 11, 2011

Plaintiff-Appellee,

v

No. 298055
Lake Circuit Court
LC No. 2009-007610-CL

LAKE COUNTY and LAKE COUNTY SHERIFF,

Defendants-Appellants.

Before: SAAD, P.J., and JANSEN and DONOFRIO, JJ.

SAAD, P.J. (*dissenting*).

While I agree with the general proposition that a trial court may enforce the precise terms of an arbitral award issued under a collective bargaining agreement, I write separately because it would have been more prudent here for the trial court to direct the parties to go back to the labor arbitrator for enforcement or clarification of his reinstatement award. Indeed, it would have been the wiser course for the parties to do so.

And, while it is true, as the majority notes, that the trial court's order limits its ruling to "simple" reinstatement, placing a former employee in her previous position becomes more complicated with the passage of time, from the time of the discharge to the issuance of the arbitral award. Also, with the passage of time, changes in personnel and budgets in public sector bargaining units often impacts and constricts the public sector employer's transfer and work assignment rights under the collective bargaining agreement. And, therefore, what appears to be a simple reinstatement on its face often entails some modification of rights and obligations of the parties and the employees under the labor agreement. And, the labor arbitrator is typically more familiar with the grievance and arbitration history of the parties and has more expertise in this specialized area of law than the trial judge.

Finally, the trial court's statements from the bench that the sheriff may "in the future" "use common sense" or "do what's reasonable" regarding reassignment of the employee at issue, contrary to the majority's assurances, raises the risk that the trial court may, "in the future," monitor and direct the sheriff's transfer or assignment decisions under the labor agreement. And, it is this risk, that the court, rather than an experienced labor arbitrator, may involve itself in a process in which the parties have chosen to utilize labor arbitrators, instead of the court system,

that should incline the trial court and the parties to ask the arbitrator to enforce his own arbitral ruling.

Accordingly, I would reverse the trial court, and direct the trial court to order the parties to seek clarification from the arbitrator who issued the arbitral ruling.

/s/ Henry William Saad