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Posted: Saturday, May 27, 2006 - 05:35:53 pm HST

Police case sent back to trial court

By Cynthia Kaneshiro - The Garden Island

An ex-secretary to a past Kaua'i Police Department chief will be going to court on her claim that she was wrongfully fired under the state Whistleblowers' Protection Act.

The justices of the state Supreme Court said in an opinion filed Tuesday that Jacquelyn Tokashiki will be going to the Fifth Circuit Court to press her claim that she was fired by former police chief George Freitas in 2002.

Tokashiki's attorney Clayton Ikei pointed out Wednesday that the justices were thorough in going over the evidence presented in the case.

"The Supreme Court discussed the evidence, and in discussing the evidence, they went over specific items that were relevant to our case," said Ikei.

Ikei said that his client cannot work anymore and is under the care of a psychologist.

He said that the opinion by the high court's justices restored his client's faith in the judicial system.

Kaua'i County Attorney Lani Nakazawa did not want to comment about the case.

The case was introduced in August 2001 when Freitas was put on leave with pay while the county's Police Commission investigated him for alleged violations of the police department's code of conduct.

At the time of the investigation, Tokashiki was also the commission's secretary.

The investigation revealed that Freitas yelled at a subordinate, and that he drove his girlfriend around in his police vehicle.

In January 2002, Freitas returned to work and reassigned Tokashiki to another unit within the police department. Four months later, she was terminated.

Tokashiki filed her wrongful termination complaint in the Fifth Circuit Court, claiming she was fired by Freitas in retaliation for being part of the investigation.

In a 2004 ruling, the court said that she did not engage in protected conduct under the state's whistleblower law, and she appealed that ruling.

The Supreme Court justices voided the lower court's ruling, and said that the case will be going to trial.

In their opinion, the justices wrote that the lower court classified Tokashiki's conduct as ministerial and secretarial, and therefore she was not participating in the investigation.

The justices disagreed with the lower court's ruling. They said that Tokashiki prepared questions for an investigator to ask witnesses; she scheduled interviews for the investigation; and that she testified before the Police Commission regarding the investigation.

The justices wrote that Tokashiki's actions amounted to more than ministerial participation in an ongoing investigation and constitute protected conduct under the state's whistleblower law.

The justices also pointed out that Freitas reassigned Tokashiki on the day he returned from his leave with pay. That act also constituted retaliation under whistleblower law, the justices wrote.

The case will now go to jury trial in the Fifth Circuit.

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