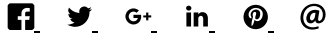




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Attorney: Case against Lawrence superintendent's driver should be dismissed

By Jill Harmacinski Aug 11, 2014



LAWRENCE — A driver for School Superintendent Wilfredo Laboy is trying to have criminal charges against him dismissed because a police officer didn't immediately issue him a ticket when he pulled him over last December for allegedly driving recklessly through a fire scene.

Instead of writing a ticket right then, Patrolman Jeffrey Malenfant sent Mark Rivera, 41, of Lowell a citation in the mail the next day. Rivera's attorney, Murat Erkan of Andover, said that's grounds for dismissal, according to a motion he filed in Lawrence District Court yesterday.

Rivera, 31, whose official School Department title is urban affairs liaison, was sent a summons after police said he drove on the wrong side of Jackson Street between parked fire engines and nearly hit firefighters on Wednesday, Dec. 26.

He was driving Laboy's black 2007 Chevrolet Tahoe, which is paid for by the School Department. Rivera is listed on the insurance policy.

In court papers, Erkan said Rivera was stopped on Jackson Street that day "for an extended period of time" while Malenfant checked his license and registration information with the Registry of Motor Vehicles. The law states that citations can only be mailed if the "violator could not be stopped" or more time is needed to determine the "nature of the violation" or "the identity of the violator," according to the motion.

No decision on the dismissal request was made yesterday. Rivera is scheduled to return to court May 15, according to court papers.

Rivera faces a reckless operation charge, a marked lanes violation and failure to pull right or stop for an emergency vehicle. He was formally arraigned on the charges on March 11, according to court papers.

Police Chief John Romero yesterday defended Malenfant's actions. Romero agreed the law does state that a police officer should write a citation at the place of the violation. But, he noted, "there are exceptions built into the statute. One of the reasons is to allow an officer a reasonable amount of time to investigate the incident and determine appropriate charges."

The law actually allows a police officer six business days to issue the citation. Malenfant, Romero said, had to interview firefighters and discuss the violations with a supervisor. "This goes beyond a traffic infraction," he said.

Rivera previously denied driving recklessly that night and stressed he had an "exemplary" driving record. That evening, Rivera was driving Laboy and two other School Department employees from a meeting back to the School Department offices on Essex Street.

Firefighters were investigating a 7 p.m. alarm at Jackson and Oak streets. Fire Capt. Frank Martin told police he looked up and "saw a large SUV-type vehicle speeding up Jackson Street toward them."

Martin said the Tahoe was on the wrong side of the road and weaving in and out of three parked firetrucks. Martin yelled to other firefighters to get out of the way. Firefighter Manny Gutierrez jumped and "the vehicle just missed him," according to Malenfant's report.

Martin flagged down police. Rivera said he apologized and waited 30 minutes until Malenfant arrived.

Laboy also spoke with the police officer, telling him he told Rivera to go around the trucks in a different direction. Laboy said he continuously asked Rivera, "What are you doing?"

The superintendent also apologized and said he realized action had to be taken, according to a police report.

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