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Laboy's driver's trial on traffic charges postponed until October

By Jill Harmacinski Jul 30, 2008



Mark Rivera, a driver for Lawrence Superintendent Wilfredo Laboy, leaves Lawrence District Court. Rivera is charged with reckless operation, marked lanes violation and failure to pull right or stop for an emergency vehicle. He is accused of darting around fire apparatus with the superintendent in his car on Dec. 26, 2007. The case was continued until the fall.

Tim Jean

EagleTribune.com, North Andover, MA



LAWRENCE — A criminal case against a school worker charged with driving recklessly through a fire scene could be dismissed in two weeks if police do not turn over copies of traffic citations the investigating officer issued last winter.

A trial for Mark Rivera, a driver for Superintendent Wilfredo Laboy, was supposed to start yesterday morning in Lawrence District Court. But the trial was postponed until Oct. 14 because Rivera's defense attorneys are still waiting to see copies of citations Lawrence police Officer Jeffrey Malenfant issued before and after the Dec. 26 incident Rivera was involved in.

Malenfant did not cite Rivera at the scene that day, in part, because he did not have a citation book with him. Rivera allegedly drove on the wrong side of the street, between fire engines and nearly hitting firefighters. He is charged with reckless operation, a marked lanes violation and failure to pull right or stop for an emergency vehicle.

In court yesterday, Judge Thomas Brennan said if the citation information isn't turned over in two weeks, he plans to dismiss the case. A half-dozen Lawrence firefighters were in court yesterday, prepared to testify in the case.

Brennan said police "are basically slumping this off. But the fact is, the defendant is entitled to this."

"This is an important, meaningful case to the Fire Department," Brennan said. "That should motivate the police to do what they are supposed to do."

One of Rivera's defense attorneys, Murat Erkan of Andover, said he asked for copies of the citations Malenfant issued to be turned over to him by July 8. He did receive some, but not all of the pertinent records by fax on Monday, he said.

On the flip side, a prosecutor said the Police Department is cooperating with the defense's request. However, the citations are not necessarily kept in order, but in a box at the station which is processed by a clerk.

Erkan said his client insists on taking the matter to trial "because he's not guilty of the traffic charges."

Rivera, whose official School Department title is urban affairs liaison, is still employed by the School Department and "has an excellent record of service," Erkan said.

On Dec. 26, 2007, Rivera was driving Laboy's black 2007 Chevrolet Tahoe, which is paid for by the School Department, as 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.

Erkan previously tried to have the case dismissed because Malenfant did not immediately arrest or cite Rivera.

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