

## EOPD officer cleared, five-day suspension voided

By Chris Sykes  
Staff Writer

According to East Orange Police Officer Elaine Settle and her attorney, Timothy R. Smith of the Caruso Smith Picini law firm in Fairfield, the New Jersey Public Employment Relations Commission has cleared Settle of any wrongdoing related to the departmental disciplinary charges she had previously been found guilty of violating with regard to the handling and release of prisoners in police custody between the East Orange Police Department and the East Orange Municipal Court.

Settle was originally charged with violating East Orange Police Department departmental rules regarding performance of duty and neglect of duty for allegedly submitting an intake form to the Irvington Municipal Court on Thursday, July 18, 2013, authorizing the release on recognizance of Brielle Concepcion, after Irvington Police had detained her on a warrant that had been issued out of the East Orange Municipal Court. Settle was accused of illegally putting East Orange Municipal Court Deputy Court Administrator James Moss's name on Concepcion's release form, in violation of the East Orange Police Department and East Orange Municipal Court's proper policies and procedures for authorizing the handling and release of suspects, felons or prisoners in the custody of "other agencies and police departments."

On Wednesday, Feb. 5, 2014, following Settle's departmental disciplinary hearing on Wednesday, Jan. 8, 2014, former East Orange Police Department Inspector Thomas Koundry ruled that Settle would be suspended without pay for five days. But Settle and her lawyer

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Photo by Chris Sykes

Retired Sgt. Robert Congleton gives testimony at the disciplinary hearing of Police Officer Elaine Settles, seated bottom left, on Thursday, Jan. 8, inside East Orange Police Department headquarters on North Munn Avenue, as her attorney, Timothy Smith, seated middle left, Deputy Chief Thomas Koundry, seated bottom right, Sgt. Hosia Reynolds, seated middle right, and an unnamed court reporter listen in.

# EO police officer is cleared of any wrongdoing

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Smith appealed Koundry's decision.

According to the opinion and award letter dated Dec. 15, 2014, with regard to Docket No. AR-2014-588, Lucille Alfano, the arbitrator assigned to the Settle case by the Public Employee Relations Commission, the deadline for Settle to be "made whole" by the city was Thursday, Jan. 15. Alfano said, "Based on the foregoing, I conclude that the city of East Orange did not satisfy its burden of proof by the preponderance of the evidence regarding the charges and specification of charges against Officer Elaine Settle on the Notice of Minor Disciplinary Action form dated Oct. 21, 2013."

"Therefore, the charges brought against Officer Elaine Settle are dismissed and the discipline of the five-day suspension imposed by the city is hereby vacated," Alfano said in the ruling. "Officer Settle is to be made whole regarding salary, benefits and any other resulting factors of the imposed discipline contained in the collective bargaining agreement and the removal of all related documents from Officer Settle's personnel file. Remedies are to be effectuated within 30 days of the date of this award."

Thursday, Jan. 15, is the deadline Alfano set for the city to redress Settle's five-day suspension, which began Wednesday, Feb. 5, 2014. Both the East Orange Police Department and the East Orange Municipal Court were involved in Settle's departmental disciplinary case and the related hearing on Wednesday, Jan. 8, 2014.

The East Orange Police Department and Municipal Court both fall under the umbrella of Mayor Lester Taylor's administration, though police Chief William Robinson runs the Police Department's day-to-day operations and

Chief Judge Harold W. Fullilove and acting court Director Sybonae Olyphant oversee the operations of the Municipal Court. The city did not respond to a request for comment about the Settle case and the Public Employment Relations Commission's deadline for her to be "made whole" by press time this week.

It should be noted that Moss and several of the current East Orange Police Department officers who testified at Settle's departmental disciplinary hearing on Jan. 8, 2014, have said, since the July 18, 2013 incident, that both the Police Department and Municipal Court have informally changed their policies and procedures for the handling of arrests and the filing of related paperwork.

However, according to city officials and Settle's lawyer, Smith, to date, there is still no formal policy in place that deals with the specific issues Robinson and the East Orange Police Department used to justify charging and disciplining his client.

"Obviously, we are very pleased at the PERC arbitrator's decision," said Smith on Monday, Jan. 12. "Clearly, justice was served. There does not exist even a scintilla of evidence that my client ever did any of the things that she was suspended five days for doing. The testimony of numerous members of the EOPD — some of them high-ranking current and former officers — shows that it had become a standard practice of the department for officers to sign DCA Moss's name to bails under certain circumstances. And clearly he had given that authority."

According to Smith, the facts didn't get in the way of punishing Settle for doing the same thing other officers had done on a regular basis in the past.

"She should not have been charged," said Smith. "Thank goodness the decision was subject to independent review. Every officer testified that that was the procedure. Only Settle was charged. Clearly, she was charged for execution of her union duties. Hopefully, she seeks the appropriate remedies for being victimized in this way."

New East Orange City Council Chairwoman Alicia Holman said she agrees with Smith. As chairperson of the council's Public Safety Committee, she served as the council's liaison with the Police Department last year and was aware of the Settle case when it initially came about. Now that it has officially been resolved by outside parties — the state of New Jersey and the Public Employment Relations Commission — Holman said she has an opinion about it.

"I'm happy she won her five days back," said Holman on Monday, Jan. 5. "I feel as though she should have never lost it. She should never have been charged in the first place. There was no policy in place. It had been done before. I think that justice was served in that instance."

Councilwoman Quilla Talmadge, the new chairwoman of the council's Public Safety Committee, said she too believes justice was served when the Public Employee Relations Commission cleared Settle of wrongdoing.

"I agree with Chairwoman Holman that she should have never been suspended or reprimanded for something that they had been doing all along," said Talmadge on Tuesday, Jan. 13. "That's probably why she won the case — because she was the only doing what everybody else had been doing for years. They were used to doing it."

But Talmadge said though Settle has

been cleared by the Public Employee Relations Commission, that does not mean the Police Department and Municipal Court issues that were exposed during the disciplinary hearing process have been resolved.

"I don't think that she did anything wrong," said Talmadge. "Maybe it was wrong, but it should not have been an accepted before. You got a rule, you follow it or you say it's not right from Day One."

Settle said she was glad to be exonerated and that all she ever wanted after she was charged was to clear her name and her East Orange Police Department service record.

"This was normal procedure that we had been doing for years," said Settle on Monday, Jan. 5. "Even though everybody else was doing it and admitted to still have been using that same protocol, I was the only person disciplined. It's very important to me that the arbitrator, Lucille Alfano, reviewed all the facts and ruled in my favor, because I don't want people to think that I just went on my own and did something arbitrarily without having the authorization to do so."

"It's also important to know that, as a union rep, if things are done unjustly, unfairly, that there is a way to challenge it. And, hopefully, the person on the outside, not attached to the city in any kind of way, will see through all the personal attacks and politics and just the selective discipline, depending on who you are and who likes you or who does not like you, which is what happens. If you're not in that clique, you're subject to discipline that other people wouldn't be. "This is an example of the system working the way that it's supposed to work. The first time in a long time."