

Split decision in suit

Judge goes down middle in Gillen's case vs. board

BY JESSE COBURN
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A judge issued a split ruling Tuesday in Hempstead Supervisor Laura Gillen's lawsuit against the town board, ordering that a no-layoff clause for union workers passed by the board be annulled, but that 197 board-approved personnel transfers were legal.

The order comes close to a year after Gillen, a Democrat, brought her Article 78 petition against her colleagues on the Republican-controlled town board, as well as against former Hempstead Supervisor Anthony Santino and the Civil Service Employees Association.

In the suit, Gillen argued that the no-layoff clause and personnel transfers passed in December 2017, shortly before she took office, were meant to protect patronage employees and to hamstring her authority as supervisor.

In a statement Tuesday night, Gillen called the order "a decisive victory for the taxpayers by reversing the purposely illegal and unethical actions of the prior administration."

"I am emboldened to continue challenging the old regime and status quo by speaking up and rooting out unethical conduct



Hempstead Supervisor Laura Gillen was against a no-layoff clause.

and illegal behavior," said Gillen, who was represented in the suit by attorney Matthew Didora.

Ronald J. Rosenberg, an attorney for the town board, said in a statement that the court "correctly recognized the rule of law as it relates to the lawful transfer of town employees, but ignored and misapplied the same statutes and law in the other elements of the court's decision."

"While we are closely studying the decision to determine what available courses of action should be undertaken, the important fact is that the Supervisor's lawsuit was frivolous and a waste of taxpayers' money," he said.

The suit also named certain

"resident-taxpayers" as petitioners. Their attorney and the CSEA could not be reached for comment Tuesday night.

Santino's attorney, Andrew K. Preston, said: "It is the policy of my office not to comment on pending litigation."

In the order, Nassau County Supreme Court Judge Randy Sue Marber found that the no-layoff clause to the town's collective bargaining agreement with CSEA should not have passed, as Santino and current town Councilman Anthony D'Esposito should have recused themselves from voting on it.

Both Santino and D'Esposito

had relatives who worked for the town, Marber wrote, making their failure to recuse themselves a violation of the town's ethics code.

"The mere appearance of ethical impropriety warranted abstention by any affected Board members, and its disregard was an error," she wrote.

Without their votes, the measure — which was approved 4-3 — would not have passed. The resolution approving the memorandum of agreement that contained the clause "must be annulled and vacated," Marber wrote.

The court found Gillen's claim persuasive that "the sole motive behind the [memorandum of agreement] was aimed at preventing the incoming Supervisor from eliminating certain employees and Commissioners the outgoing Supervisor [Santino] sought to protect," the order reads.

Marber dismissed Gillen's contention that the 197 personnel transfers approved by the town board at the same meeting had been illegal, however.

"This Resolution on its own does not expressly violate any applicable Town Law or provision of the General Municipal Law," the order reads.

Marber wrote, however, that the "Court's determination in this regard does not mean that the far-reaching measures undertaken by the former Supervisor and the Board to protect personal appointees is condoned."

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THIS DATE IN HISTORY

1836 The Alamo in San Antonio, Texas, fell as Mexican forces led by General Antonio Lopez de Santa Anna stormed the fortress after a 13-day siege.

1912 Oreo sandwich cookies were first introduced by the National Biscuit Co.

1944 U.S. heavy bombers staged the first full-scale American raid on Berlin during World War II.

1964 Heavyweight boxing champion Cassius Clay officially changed his name to Muhammad Ali.

1970 A bomb being built inside a Greenwich Village townhouse by the radical Weathermen accidentally went off, destroying the house and killing three group members.

1995 "The Jenny Jones Show" taped an episode on same-sex crushes during which Jonathan Schmitz learned his secret admirer was an acquaintance, Scott Amedure; three days later, Schmitz fatally shot Amedure, later telling police that Amedure had embarrassed him on national TV.

2016 Former first lady Nancy Reagan died in Los Angeles at age 94.

Lawmakers vote to sue to recoup Burke salary

BY RICK BRAND
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The Suffolk County Legislature voted unanimously Tuesday to start a lawsuit to recoup salary and benefits from ex-police chief James Burke, who was convicted of beating a burglary suspect and orchestrating a cover up.

The measure was approved after sponsor Robert Trotta (R-Fort Salonga) amended the resolution so that it is "strictly limited" to Burke and would not set a precedent to act similarly with other county employees.

Trotta's bill directs the county attorney to file suit against Burke using the "faithless servant doctrine," which permits

employers to withhold pay and benefits for the period in which employees act disloyally or are involved in misdeeds.

Attorney Howard Miller earlier had told lawmakers he won a \$1 million award against two ex-William Floyd School District officials who embezzled funds.

"Burke clearly breached the duty he owed the county," said Trotta. "By committing serious crimes and using his position to impede the investigation. . . Mr. Burke showed loyalty to himself to the detriment of the county."

Trotta said he hoped the measure, "will send a message to all employees, government or not, that they can be held responsible for their actions."

Jason Elan, spokesman for Suffolk County Executive Steve Bellone, said in a statement that Bellone, "will sign the legislation despite his concerns that the bill does not permit the county to recoup monies from former District Attorney Tom Spota who empowered and conspired with Burke."

Spota and a former key aide, Christopher McPartland, face trial on May 6 on federal charges of covering up the assault by Burke. Spota and McPartland have pleaded not guilty.

Burke was convicted on federal charges of beating burglary suspect Christopher Loeb at a precinct station house in 2012 and orchestrating a cover-up.

Suffolk did not represent Burke in the lawsuit brought by Loeb, which resulted in a \$1.5 million settlement. Loeb sued the county, Burke and six other police officials.

Trotta originally sought to recover the \$1.5 million in settlement funds. But Suffolk County Attorney Dennis Brown called Trotta's measure "frivolous" because the county had not represented Burke.

After Trotta revised the measure to use the "faithless servant" doctrine, police union officials raised concerns it could set a precedent that could affect many county workers. The proposal was tabled and amended again.