



CITY OF ELMIRA NEW YORK

Office of the Mayor
CITY HALL • 317 EAST CHURCH STREET • ELMIRA, NEW YORK 14901
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Daniel J. Mandell
Mayor

Office: (607) 737-5644
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February 23, 2023

Mr. Janes E. Turpin
News Director
WETM 18News
101 E. Water St.
Elmira NY, 14901
jamesturpin@wetmtv.com

Dear Mr. Turpin,

I received your appeal of Mr. Dubina's Freedom of Information Law request, dated January 13, 2023, relating to disciplinary record of former Chief Anthony Alvernaz. The request was initially emailed to City Manager P. Michael Collins. Once received, Mr. Collins promptly turned the request over to the City Clerk, the Records Management Officer.

The Clerk responded to your request on January 18, 2023, and indicated your office would have the City's determination on or about February 7, 2023. On February 15, 2023, a period within 20 days from the Clerk's acknowledgement, you received a determination from the City Clerk indicating that no disciplinary records of Anthony Alvernaz exist during his time as Chief of Police.

Upon further research, the City is providing you with an audio file, and two documents consisting of a Personnel Directive and a written paragraph. Your appeal is granted with regard to the abovementioned documents attached.

You point out that if there are no disciplinary records, then the City must have violated Civil Service rules. New York Civil Service Law, Section 75(1), describes the employee's subject to disciplinary procedures under the statute. The Chief of Police is not a person described in subdivisions (a)-(d), and, therefore, the statute does not apply in this case. *See DiBattista v. McDonough*, 80 A.D.3d 936 (3rd Dept. 2011).

Yours truly,

Daniel J. Mandell, Jr.
Mayor

cc. State Committee on Open Government
Department of State
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231

January 9, 2023

Mr. Michael Collins
Elmira City Manager
Elmira, New York 14901

Dear Mr. Collins:

In order to protect the integrity of the internal investigation being conducted by your office concerning a matter that occurred on 12/09/22, I am requesting that I be placed upon administrative leave until the completion and outcome of this investigation has been finalized.

I understand that during this investigation I will have no access to any and all Elmira City property, buildings, officers, equipment, systems, tools and personnel.

Sincerely yours,


Anthony Alvernaz, Elmira City Police Chief

1-9-23



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City Manager's Office
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P. Michael Collins
City Manager

Office: (607) 737-5644
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January 5, 2023

PERSONNEL DIRECTIVE

On January 4, 2023, I was given a thumb drive from an internal police employee that contains body camera video of Chief Alvernaz attending to a call on the southside of Elmira. In order for me to begin my investigation, I will need to be requesting information from Deputy Chief Kris Thorne. I am directing Chief Alvernaz not to have any discussion with Deputy Chief Thorne regarding this internal investigation nor any other member of the Elmira Police Department.

Please note, this information was not given to me by Deputy Police Chief Thorne.

Respectfully,

P. Michael Collins
City Manager

I've completed my investigation and I have determined that your conduct regarding the incident on 12/9/2022, together with your behavior this past week constitutes unprofessionalism and insubordination. Accordingly, you may resign effective immediately which will result in payment of your accruals and a lump sum payment of 6 -weeks subject to federal and states tax withholdings. If you choose not to resign you are terminated effective immediately with payment of only your accruals.