

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DOUG WILLIAMS :  
: CIVIL ACTION  
: v. :  
: NO. 04-5419  
: :  
BOROUGH OF SINKING SPRING, et al. :

**MEMORANDUM AND ORDER**

**Juan R. Sánchez, J**

**May 12, 2005**

Borough of Sinking Spring (Borough), asks this court to dismiss Douglas Williams's claim that the Borough violated his right to procedural due process when it revoked its offer of employment as a Borough Police Officer. The Borough claims Williams does not have a property interest in the police officer position because he was never given the job. For the reasons that follow, this Court grants Defendant's Motion to Dismiss.

**FACTS**<sup>1</sup>

Williams applied for a police officer job with the Borough of Sinking Springs in October 2002. *See* Plf's First Amended Complaint ¶¶ 21-22. Williams was one of five candidates certified for hire by the Borough. *See* Plf's First Amended Complaint ¶¶ 23-24. He interviewed for the position in January 2003, but was not selected for the job. *See* Plf's First Amended Complaint ¶¶ 25, 30. Williams claims the Borough denied him procedural due process when it failed to give him a

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<sup>1</sup> In a Motion to Dismiss, we view the evidence in the light most favorable to the non-moving party. *Christopher v. Harbury*, 536 U.S. 403, 406 (2002).

veteran's preference to the position, which he was entitled under 51 P.S. §7104. Williams also claims he was denied procedural due process when he was given the position of police officer and then the position was later revoked without any process. *See* Plf's First Amended Complaint ¶¶ 61-63.

On April 1, 2005, this Court dismissed Williams's due process claim under Pennsylvania's Veterans Preference Statute. The Court, however, reserved ruling on whether Williams was denied procedural due process when the position he was offered was revoked. On April 26, 2005, the parties presented oral argument on the latter issue.

### **DISCUSSION**

“To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it.” *Board of Regents v. Roth*, 408 U.S. 564, 577 (1972). The Constitution does not create property interests. *Id.* Property interests are created “by existing rules or understandings that stem from an independent source such as state law -- rules or understandings that secure certain benefits and that support claims of entitlement to those benefits.” *Id.*

On January 29, 2003, Williams received a Letter of Appointment, stating, “[y]our name has been certified by the Civil Service Commission of the municipal governing body of the Borough of Sinking Spring, Pennsylvania for the appointment to the position of patrol officer in the police department.” The letter directed Williams to indicate whether he would “accept the appointment to the position . . . *if selected by the municipal governing body.*” *See* Pl's Letter of Appointment (emphasis added). The letter made Williams's appointment contingent upon his selection by the municipal governing body. Williams offered no evidence showing the municipal governing body

selected him for the position. Consequently, Williams has no claim of entitlement to the police officer position. Accordingly, we enter the following:

**ORDER**

And now this 12th day of May, 2005, it is hereby Ordered that Defendant's Motion to Dismiss Portions of Plaintiff's Amended Complaint (Doc. 15 ) is Granted.

BY THE COURT:

S / Juan R. Sánchez, J.

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