



**COURT UPHOLDS DUE PROCESS PROTECTIONS FOR POLICE OFFICERS
FACING AUTOMATIC DECERTIFICATION UNDER SAFE-T ACT**

On September 26, 2023, the U.S. District Court for the Northern District of Illinois issued a Memorandum Opinion and Order in the case of *Aaron Feiza v. Illinois Law Enforcement Training and Standards Board, et al.* In its ruling, the Court granted a preliminary injunction against the Illinois Law Enforcement Training and Standards Board (“ILETSB”), forcing it to restore the law enforcement certification of the plaintiff until it observes the appropriate constitutional procedures for decertification.

Under the Illinois SAFE-T Act, which was passed by the Illinois General Assembly in 2021, the ILETSB began “automatically decertifying” police officers who were facing potential criminal charges, before conducting any due process hearing, even though the officers were never found guilty of committing a crime. Feiza, a Kane County Sheriff’s Deputy, was charged with a felony drug offense after he was filmed allegedly ingesting cocaine. Feiza contested these charges and ultimately reached a deferred prosecution agreement with the County. After learning of the deferred prosecution agreement, the ILETSB decertified Feiza as a law enforcement officer under the automatic-certification provision of the Illinois Police Training Act (the “Act”). After he was denied a hearing to contest the decertification, Feiza brought a lawsuit against the ILETSB and various other officers.

In this lawsuit, Feiza argues that the ILETSB acted based on an unlawfully vague statute and violated his procedural and substantive due process rights when it decertified him. He also seeks an injunction requiring the ILETSB to recertify him. The ILETSB moved to dismiss the complaint for lack of subject-matter jurisdiction and failure to state a claim. In its September 26th ruling, the Court first addresses the issue of standing, noting that Feiza suffered three clear injuries: “lost income from unemployment, police decertification, and the alleged deprivation of a constitutional right.” The Court finds that the ILETSB caused these injuries when it decertified him, and that the injuries would be remedied if the Court granted the relief sought by Feiza. Therefore, the Court finds that Feiza has standing to bring the lawsuit.

The Court first rejected the argument that the Act is void for vagueness, finding that the provision is sufficiently specific so as to be “clear to a ‘person of ordinary intelligence,’” especially since it does not impose criminal penalties. However, Feiza also challenges his decertification on the grounds that the ILETSB violated his procedural and substantive due process rights. Procedural due process requires that the government follows proper procedures when depriving a person of life, liberty, or property, while substantive due process offers heightened protection for certain fundamental rights and property interests.

Longstanding case law states that, once a professional license has been issued, the recipient has a property interest in that license. The Court acknowledges that law enforcement certification is akin to a professional license and, therefore, represents a property interest. Thus, the Court found that the ILETSB was required to provide Feiza with procedural due process before decertifying him, despite the automatic-certification provision of the Act. Because he was immediately and automatically decertified upon entering a deferred prosecution agreement with the County, Feiza had no notice of the ILETSB’s reasons for decertifying

him and no opportunity to respond, two fundamental aspects of due process. Therefore, the Court found that the ILETSB violated Feiza’s procedural due process rights.

The Court expressly held: “at minimum, an Illinois law enforcement officer is owed notice of the proposed deprivation, a statement of reasons, and an opportunity to be heard in response....” Regarding automatic decertification, the Court further found the ILETSB provided the police officer with no basic due process requirements. As such, the Court granted the plaintiff’s motion for a preliminary injunction, ordered ILETSB to restore the officer’s police certification, and enjoined ILETSB from enforcing the automatic decertification provision of the Act against the officer. This was the first successful challenge to automatic decertification.

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