

## **Officer fights police chief**

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*By Craig Boerner*

When local attorney David Raybin took Metro Police Assistant Chief Mickey Miller's case last month he knew he wouldn't win an appeal to the Civil Service Commission. From day one, he was preparing for a lawsuit.

Miller, a 27-year department veteran, was "rolled back" to the rank of captain when five Civil Service protected assistant chief positions were abolished and essentially replaced with three appointed deputy chief positions that can be reassigned at the chief's discretion.

Raybin contends that three deputy chiefs are now performing the exact same duties of the former assistant chiefs, which would be illegal. He said the case has broader implications because, if similar "rollbacks" were initiated in other Metro departments, the Civil Service system created to protect employees under the Metro Charter would be dismantled.

Metro Legal and Human Resources were abreast of the top-level restructuring suggested by Police Chief Ronal Serpas and dated letters indicate that Human Resources Director Randy Lovett, also a Civil Service Commission board member, studied and approved the changes.

"Once you set this precedent, once you do this to Miller, the doors are wide open," Raybin said.

"... I believe this was a mere substitution. When you roll people back and allow people to do the same function, that is circumventing under Civil Service."

Raybin spent most of Tuesday morning speaking before the Civil Service Commission, entering numerous documents of evidence into the record, much to the chagrin of Civil Service Chair Bill Farmer.

Farmer told Raybin on several occasions that evidence was not relevant to the appeal because the board is charged with determining only if the rules were followed in restructuring the department.

The materials could, however, be used at a later date if the case is tried in court.

Serpas' attorney, Jim Charles, said the Charter and Civil Service rules give department heads the ability to reorganize through abolishment of positions. Serpas said his changes increase efficiency by removing an unnecessary layer of supervision between the chief and his officers on the street.

Included in Raybin's allegations are that former Human Resources Director Billy Lynch called Miller's first cousin to arrange a meeting with Miller. At that meeting, Lynch is alleged to have told Miller to drop the appeal and "take one on the chin," according to Raybin's statements.

Raybin alleges that Lynch told Miller he was speaking for Deputy Mayor Bill Phillips.

"I have know his first cousin for years and I just thought that maybe I could explain the process of what was going on," Lynch said. "But once I talked to him I realized that I wasn't going to make any headway so I just stayed out of it." Also not relevant to the Civil Service Commission appeal, according to Farmer, was an alleged conversation between Miller and Serpas in which the chief is said to have asked if he had the authority to appoint his assistant chiefs.

Miller, 48, said he told Serpas that all of the assistant chiefs had six months on the job and their positions were Civil Service protected. Serpas was said to have stated that he had found a way to get around that, according to Miller.

"At first it bothered me," Miller said. "But I thought it just can't be done here ... I never imagined that this could have occurred in this government."

The three other assistant chiefs demoted to captain along with Miller chose to retire with their rank.

Unlike assistant chief, Miller has no Civil Service protection in his current role as commander of the West Precinct. The assignment can be withdrawn at the chief's discretion and his salary returned to the captain's level, a \$10,000 reduction.

"A commander can be moved in and out, dropped in salary," Raybin said. " ... An entire career can evaporate overnight."

The board is expected to rule July 13 on Miller's appeal, which asks that his rank and Civil Service position be restored.