

**IN THE COURT OF APPEALS**  
**FIRST APPELLATE DISTRICT OF OHIO**  
**HAMILTON COUNTY, OHIO**

TIMOTHY A. ROBERTS,	:	APPEAL NO. C-1000108
Plaintiff-Appellant,	:	TRIAL NO. A-0907740
vs.	:	<i>JUDGMENT ENTRY.</i>
VILLAGE OF GREENHILLS,	:	
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

Plaintiff-appellant, Timothy Roberts, appeals the trial court's judgment affirming the decision of the Greenhills Village Council terminating Roberts from his position as a lieutenant with the local police department. For the following reasons, we affirm.

As part of Roberts's employment with the Greenhills police department, he was invited to attend the FBI National Academy in Quantico, Virginia. Despite repeated assertions by Roberts that all was well at the academy, on March 5, 2009, Greenhills Police Chief Thomas Doyle received a telephone call from FBI Supervisory Special Agent Gregory Cappetta indicating the probability that Roberts would be expelled from the academy the next day. Doyle drove to the academy, confronted Roberts, and withdrew him from the program. Roberts was eventually terminated for dishonesty.

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

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In his single assignment of error, Roberts now argues that the trial court erred in upholding the council's decision when there was insufficient and unreliable evidence presented to demonstrate that Roberts had been dishonest. Essentially, Roberts argues that the council relied on hearsay evidence in deciding to terminate him.

Assuming for argument's sake that some of the evidence was hearsay, we cannot say that the trial court abused its discretion in affirming the council's decision to terminate Roberts. Hearsay evidence is not precluded in administrative hearings, as administrative bodies are not bound by the strict rules of evidence applied in courts of law.<sup>2</sup> But even if the Ohio Rules of Evidence did apply in this case, Doyle's statement that Cappetta had told him that the academy was going to expel Roberts was admissible under Evid.R. 803(A) as an exception to the hearsay rule involving a statement concerning the declarant's state of mind or intent. Here, Cappetta's statement was offered to show his intent to expel Roberts from the FBI academy.

Accordingly, we conclude that there was reliable evidence to support the determination that Roberts had lied to his supervisor about his deteriorating performance at the FBI academy. The single assignment of error is overruled, and the judgment of the trial court is affirmed.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HILDEBRANDT, P.J., SUNDERMANN and DINKELACKER, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on November 24, 2010

per order of the Court \_\_\_\_\_.

Presiding Judge

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<sup>2</sup> See *Bd. of Edn. for Orange City School Dist. v. Cuyahoga Cty. Bd. of Revision*, 74 Ohio St.3d 415, 1996-Ohio-282, 659 N.E.2 1223 (under Evid.R. 101[A], the rules of evidence do not necessarily apply to administrative agencies).