

Exeter man to get \$17.5k settlement - after police dropped defamation charge - ACLU position: “Law enforcement should not have the power to crack down on free speech, especially when that speech is critical of law enforcement,” said Gilles Bissonnette, ACLU-NH legal director.

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EXETER — The town’s insurer has agreed to pay a local man \$17,500 to settle claims related to his arrest for criminal defamation for online comments critical of Police Chief William Shupe.

The settlement agreement, which was signed earlier this month, made clear that the town and its insurer, Primex, had denied and disputed Robert Frese’s allegations.

However, Primex wrote that it decided to resolve the allegations “to avoid legal expense to Primex, but not based on any legal or factual concerns over the actual law and facts.”

The settlement resulted from Frese’s arrest on May 23, 2018, on a criminal defamation charge filed by Exeter police after he posted a comment on The Exeter News-Letter’s Facebook page accusing Shupe of covering up for a “dirty cop.”

The ACLU-NH argued police had no probable cause to arrest him under the criminal defamation law.

The arrest created a firestorm of criticism as police were accused of violating Frese’s First Amendment rights.

Police eventually dropped the charge after the state Attorney General’s office reviewed the case.

The settlement was a compromise of the disputed claims and the town denies “any and all liability, wrongdoing and culpability regarding claims and disputed litigation allegations,” the agreement said.

Frese, 63, originally wanted \$65,000 to settle the case, according to a demand letter submitted to the town last fall by the American Civil Liberties Union of New Hampshire.

He had claimed that his damages included his arrest and time spent in police custody and being investigated; the personal effort spent preparing his criminal defense between his arrest on May 23 and June 7, when the charge was dropped; and enduring a criminal prosecution until the charge was dismissed.

If the case wasn't settled, Frese had threatened to file a federal lawsuit against the town, Shupe, and Detective Patrick Mulholland for allegedly violating his free speech rights.

Gilles Bissonnette, ACLU-NH legal director, called the settlement a victory for the First Amendment and a significant vindication of Frese's free speech rights.

"Mr. Frese went to the internet to voice his grievances about the police only to be arrested by the police. The Attorney General's Office agreed that Exeter's prosecution of Mr. Frese was unlawful. This is a textbook example of the use and abuse of criminal defamation laws, which is why Mr. Frese is also challenging the constitutionality of New Hampshire's criminal defamation law in federal court. Law enforcement should not have the power to crack down on free speech, especially when that speech is critical of law enforcement," he said in a statement.

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Caption:

ROBERT FRESE