

IN THE SUPREME COURT OF TEXAS

=====
No. 04-1113
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CITY OF WACO, TEXAS, PETITIONER,

v.

LARRY KELLEY, RESPONDENT

=====
ON PETITION FOR REVIEW FROM THE
COURT OF APPEALS FOR THE TENTH DISTRICT OF TEXAS
=====

PER CURIAM

Larry Kelley, Waco's Assistant Chief of Police, was suspended indefinitely by the Chief of Police for his arrest while driving under the influence of alcohol. Kelley appealed the suspension to an independent third party hearing examiner, who found the charges were proven but reduced the indefinite suspension to a 180-day suspension with reinstatement at the rank of sergeant. The examiner also awarded Kelley back pay. The City challenged the decision on various grounds in its appeal to district court pursuant to Section 143.057(j) of the Local Government Code. TEX. LOC. GOV'T CODE § 143.057(j). The trial court upheld the examiner's decision. On the City's appeal, the court of appeals vacated the district court's judgment and dismissed the case for lack of jurisdiction, concluding that the City had no right to appeal from an independent hearing examiner's decision. ___ S.W.3d ___, ___. In this Court, the City argues that municipalities have the right to

appeal an independent hearing examiner's decision. For the reasons explained today in *City of Houston v. Clark*, ___ S.W.3d ___ (Tex. 2006), we agree that the City of Waco has a right to such an appeal under Section 143.057(j) of the Local Government Code.

Accordingly, we grant the City's petition for review and without hearing oral argument, TEX. R. APP. P. 59.1, we reverse the judgment of the court of appeals and remand the case to that court for further proceedings.

Opinion delivered: June 30, 2006