

King County, Decision 6767-A (PECB, 1999)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

KING COUNTY,)	
)	
Employer.)	
-----)	
RALPH CARR, JR.,)	
)	CASE 14314-U-98-3552
Complainant,)	
)	DECISION 6768-A PECB
vs.)	
)	
WASHINGTON STATE COUNCIL OF)	
COUNTY & CITY EMPLOYEES,)	
)	
Respondent.)	
-----)	
RALPH CARR, JR.,)	
)	CASE 14313-U-98-3551
Complainant,)	
)	DECISION 6767-A PECB
vs.)	
)	
KING COUNTY,)	DECISION OF COMMISSION
)	
Respondent.)	
-----)	

This case comes before the Commission on an appeal filed by Ralph Carr, Jr., seeking to overturn an order of dismissal issued by Executive Director Marvin L. Schurke on July 23, 1999.¹ We affirm.

BACKGROUND

Mr. Carr filed two unfair labor practice complaints on December 30, 1998, one against King County (employer), and one against Washington State Council of County and City Employees (union). The

¹ King County, Decision 6767 (PECB, July 23, 1999).

allegations of the complaints are outlined in the order of dismissal and will not be repeated here.

In the order of dismissal, the Executive Director ruled that the Commission has no jurisdiction over the race and disability discrimination, contract violations, and violations of various other laws alleged. In addition, many of the allegations were found untimely, or lacked allegations of union or employer animus which might indicate a causal connection between their actions and union, and employee rights under the collective bargaining law.

DISCUSSION

In materials supplied on appeal,² Mr. Carr asserts that: The Executive Director had unspecified alternative motives; the dismissal was not impartial, evidence tampering existed, there was wrongful handling of documents, mis-leading statements were made, there was concealing or covering up of material facts, there were

² The complainant did not comply with WAC 391-45-350, which states in part:

(3) **A notice of appeal ... shall identify, in separate numbered paragraphs, the specific rulings, findings of fact, conclusions of law, or orders claimed to be in error.**

(4) The original and three copies of a notice of appeal or notice of cross-appeal shall be filed at the commission's Olympia office as required by WAC 391-08-120(1), and **copies shall be served on all other parties** as required by WAC 391-08-120 (3) and (4).

[Emphasis by **bold** supplied.]

No documentation of service on the other parties has been supplied in this case. Appeals have been dismissed where they were not properly served. See, City of Kirkland, Decision 6377-A (PECB, 1998), and cases cited therein.

factual discrepancies, and a conflict of interest affected the proceedings and the order of dismissal. He claims he provided examples of documents that showed management interference in union voting or negotiations, but the Executive Director stated he did not see that documentation. He states he then reviewed the information he sent to the Commission and that some documents had been removed, such as memorandums of agreements between the employer and union. He claims the Executive Director denied him "speedy relief and resolving my problems through due process of the law", and he would hold the Executive Director accountable "for the Discrimination and bias held against me in this case". In his appeal, Mr. Carr states, among other things, that management lacks the ability to promote positive leadership and that, unless issues of honesty, integrity, and pride are addressed, the employer would continue to break the law. Mr. Carr also claims the Executive Director refused documents he wanted to submit after he received the order of dismissal, and he has supplied numerous documents that were not supplied to the Executive Director prior to the dismissal.

Submission of New Materials

The Commission does not allow parties to bring forth new facts or advance issues on appeal that could have been considered in proceedings before Examiners or the Executive Director. See, King County, Decision 6291-A (PECB, 1998). See, also, Chelan County, Decision 5559-A (PECB, 1996) and Island County, Decision 5147-D (PECB, 1996).

The Jurisdiction of the Commission

This Commission does not have authority to resolve each and every dispute arising in public employment. Indeed, our jurisdiction is

limited to deciding whether alleged conduct constituted one of the unfair labor practices specifically outlawed by the statute. Local 2916, IAFF v. Public Employment Relations Commission, 128 Wn.2d 375 (1995). See, also, Tacoma School District, Decision 5465-E (EDUC, 1997).

This case arises under Chapter 41.56 RCW, which is titled "Public Employees' Collective Bargaining Act". Under RCW 41.56.030, the pertinent definitions include:

(3) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter. In the case of the Washington state patrol, "collective bargaining" shall not include wages and wage-related matters.

RCW 41.56.040 outlines the right of employees to organize, designate representatives, and bargain:

No public employer, or other person, shall directly or indirectly, interfere with, restrain, coerce, or discriminate against any public employee or group of public employees in the free exercise of their right to orga-

nize and designate representatives of their own choosing for the purpose of collective bargaining, or in the free exercise of any other right under this chapter.

Administrative enforcement of both the employee rights and the employer and union obligations imposed by Chapter 41.56 RCW is by means of the unfair labor practices specified as follows:

RCW 41.56.140 UNFAIR LABOR PRACTICES FOR PUBLIC EMPLOYER ENUMERATED. It shall be an unfair labor practice for a public employer:

(1) To interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by this chapter;

(2) To control, dominate or interfere with a bargaining representative;

(3) To discriminate against a public employee who has filed an unfair labor practice charge;

(4) To refuse to engage in collective bargaining.

RCW 41.56.150 UNFAIR LABOR PRACTICES FOR BARGAINING REPRESENTATIVE ENUMERATED. It shall be an unfair labor practice for a bargaining representative:

(1) To interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by this chapter;

(2) To induce the public employer to commit an unfair labor practice;

(3) To discriminate against a public employee who has filed an unfair labor practice charge;

(4) To refuse to engage in collective bargaining.

RCW 41.56.160 states as follows:

The commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders: PROVIDED, That a complaint shall not be processed for any

unfair labor practice occurring more than six months before the filing of the complaint with the commission. ...

Our rules do not require that parties appearing before the Commission be represented by legal counsel, but an individual proceeds at his peril. Whether an individual is represented by legal counsel or not, the Commission applies the same standards to the determination of whether a complaint states a cause of action. See, City of Kirkland, Decision 6377-A (PECB, 1998). The Commission must consider the rights of other parties. See, King County, Decision 5595-A (PECB, 1996).

The order of dismissal thoroughly outlines the facts and claims that were before the Executive Director, and the applicable law. We have reviewed the complaint and supporting documents, and find nothing that would be the basis for finding a cause of action under collective bargaining law.

Many of the issues raised are violation of contract claims, or claims under laws administered by other state or federal agencies. Many of them were untimely under RCW 41.56.160, and most of those would not state a cause of action under Chapter 41.56 RCW even if they had been timely filed. In summary, no factual details are alleged which bring any of these claims under the jurisdiction of the Commission.

Allegations of Misconduct

Even if they were adequately detailed (which they are not), the complainant's new allegations of suspicious motives, evidence tampering, concealing of facts, and the like, do not salvage the complaint. They do not supply any valid argument that would tie

the original allegations to potential unfair labor practices of the employer or the union. The Executive Director routinely dismisses complaints that do not state a cause of action and we affirm them when the record shows dismissal is warranted.³ There is nothing in the record in this case to indicate that facts supplied to the Executive Director were not considered, or that the handling of the case was anything other than routine. This Commission simply lacks jurisdiction over the complainant's allegations.

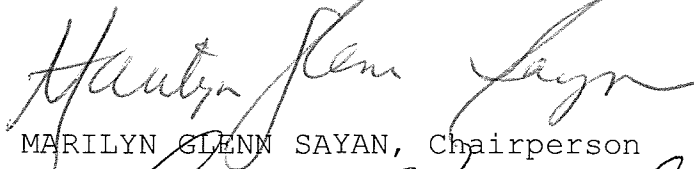
NOW, THEREFORE, it is

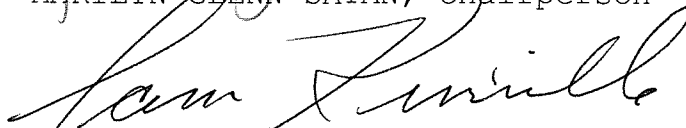
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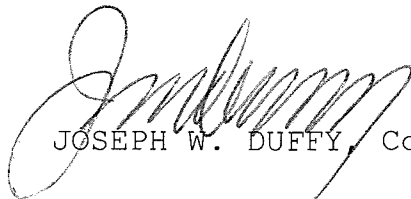
The order of dismissal issued in the above-captioned matter is AFFIRMED.

Issued at Olympia, Washington, on the 10th day of November, 1999.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


SAM KINVILLE, Commissioner


JOSEPH W. DUFFY, Commissioner

³ See, Kennewick School District, Decision 6427-A (PECB, 1998); City of Kirkland, Decision 6377-A (PECB, 1998); Renton School District, Decision 6300-A (PECB, 1998); Bremerton School District, Decision 6223-A (PECB, 1998).