

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PIERCE TRANSIT,	)	
	)	
Employer.	)	
-----	)	
KEVIN ZINSKI,	)	CASE 9730-U-92-2206
	)	
Complainant,	)	
	)	
vs.	)	DECISION 4094 - PECB
	)	
AMALGAMATED TRANSIT UNION,	)	
	)	ORDER OF DISMISSAL
Respondent.	)	
	)	
	)	

On April 1, 1992, Kevin Zinski filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the Amalgamated Transit Union had violated RCW 41.56.150, by contributing union funds to political candidates. The case came before the Executive Director for processing pursuant to WAC 391-45-110,<sup>1</sup> and a preliminary ruling letter sent to the parties on May 13, 1992, noted certain defects with the complaint, as filed. The complainant was given 14 days in which to file and serve an amended complaint, or face dismissal of the case.

The complaint indicates that the complainant is an employee of Pierce Transit. A contract excerpt filed with the complaint was interpreted as showing that the complainant is represented for the purpose of collective bargaining by the Amalgamated Transit Union, and that the contract between the employer and union contains a

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<sup>1</sup> At this stage of the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

"union security" provision that is applicable to the complainant. Although it is not stated expressly, it is inferred that Mr. Zinski is a dues-paying member of the local union.

The preliminary ruling letter noted that Pierce Transit is a public employer, and that its employees bargain under the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. That statute authorizes inclusion of "union security" arrangements in collective bargaining agreements, at RCW 41.56.122.

The first incident cited by the complainant occurred in December of 1991, and resulted in no contribution being made. The second incident, in January of 1992, apparently resulted in a contribution to a candidate for public office. The third and fourth paragraphs of the statement of facts concern efforts to have the union cease making such contributions from dues money. The fifth paragraph suggests that the complainant was advised of his right to limit his dues payments under controlling federal court decisions, but it appears that Mr. Zinski objects to the loss of membership privileges (e.g., voting at union meetings) which would accompany exercise of his right to limit his dues payments.

Union security arrangements fundamentally impose only a financial obligation upon employees. This is reflected in Article III, Paragraph C of the collective bargaining agreement, which paraphrases the National Labor Relations Act in saying:

The Union agrees that membership in the union will not be denied or terminated for any reason **other than the failure of an employee covered by this Agreement to tender the periodic dues and initiation fees uniformly required as a condition of acquiring membership in the union. ...**

Thus, an employee is not obligated to commit to accept all union philosophies and policies.

Unions are voluntary organizations. Their internal affairs are generally controlled by constitutions and bylaws, which are the contract among the members for how the organization is to be operated. Principles of "majority rule" are common. Generally speaking, the internal affairs of unions are not regulated by the Public Employees' Collective Bargaining Act or subject to scrutiny by the Public Employment Relations Commission.<sup>2</sup>

In Abood v. Detroit Board of Education, 431 U.S. 209 (1977), the Supreme Court of the United States ruled that a union is only entitled to enforce collection of a non-member's proportional share of the costs of collective bargaining and contract administration.<sup>3</sup> In other words, the union's dues must be **apportioned between costs which are "chargeable" and other costs**. In Chicago Teachers Union v. Hudson, 475 U.S. 292 (1986), the Supreme Court of the United States set forth certain procedures that unions must follow to protect the substantive rights of employees detailed in Abood.<sup>4</sup> The Public Employment Relations Commission has asserted jurisdiction where employees have been subjected to enforcement of otherwise lawful union security obligations in a manner that violates their constitutional rights under Abood and Hudson. See,

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<sup>2</sup> The few exceptions focus on union actions which both discriminate on some unlawful basis and have an effect on the wages, hours or working conditions of an employee, so as to be a breach of the "duty of fair representation".

<sup>3</sup> In holding that non-members could not be forced to pay for the union's support of ideological causes not germane to the union's role as exclusive bargaining representative, the court inherently recognized that unions have a right to support such causes. Union actions were thus also reduced to a financial transaction, *i.e.*, at a "cost" of losing a portion of the non-members' dues.

<sup>4</sup> Again, the court's ruling does not prohibit unions from supporting ideological causes not germane to the union's role as exclusive bargaining representative. The court merely established procedures to be followed where a union exercises rights which are inherently recognized to exist, and a non-member chooses to object.

Brewster School District, Decision 2779 (EDUC, 1987); Spokane County Fire District 9, Decision 3773-A (PECB, 1992).

It appears that Mr. Zinski has been offered the opportunity to pay a service fee to the union, as contemplated by the collective bargaining agreement. The facts alleged were not sufficient to form an opinion that the union may have breached its obligations under Abood and Hudson. No decision is cited or found where an employee asserting his or her constitutional right to reduced dues obligations has also been entitled to full membership rights in the union. To the extent that Zinski objects to a loss of membership rights that would accompany his assertion of a right to dues apportionment, the complaint failed to state a cause of action.

Nothing further has been heard or received from the complainant concerning this matter.


NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in this matter is DISMISSED for failure to state a cause of action.

Entered at Olympia, Washington, on the 12th day of June, 1992.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.