

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

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| DAVID M. ESTES, |) | |
| |) | |
| Complainant, |) | CASE 8316-U-89-1805 |
| |) | |
| vs. |) | DECISION 3470-A - PECB |
| |) | |
| CITY OF SEATTLE, |) | |
| |) | |
| Respondent. |) | |
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| CITY OF SEATTLE, |) | |
| |) | |
| Employer |) | |
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| DAVID M. ESTES, |) | |
| |) | |
| Complainant, |) | CASE 8317-U-89-1806 |
| |) | |
| vs. |) | DECISION 3471-A - PECB |
| |) | |
| SEATTLE POLICE DISPATCHERS GUILD, |) | |
| |) | |
| Respondent. |) | |
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| CITY OF SEATTLE, |) | |
| |) | |
| Employer |) | |
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| DAVID M. ESTES, |) | |
| |) | |
| Complainant, |) | CASE 8318-U-89-1807 |
| |) | |
| vs. |) | DECISION 3472-A - PECB |
| |) | |
| SEATTLE POLICE OFFICERS GUILD, |) | DECISION OF COMMISSION |
| |) | |
| Respondent. |) | |
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This case comes before the Commission on a timely petition of David M. Estes for review of dismissal orders entered by Executive Director Marvin L. Schurke under the preliminary ruling procedure of WAC 391-45-110. The employer and the two unions involved have not responded to the petition for review.

BACKGROUND:

On December 6, 1989, David M. Estes filed three complaints with the Public Employment Relations Commission, alleging that the City of Seattle, the Seattle Police Officers Guild (SPOG) and Seattle Police Dispatchers Guild (SPDG) had all committed unfair labor practices in violation of Chapter 41.56 RCW. Three separate cases were docketed, as indicated above.

All three cases were reviewed by the Executive Director for the purpose of making preliminary rulings pursuant to WAC 391-45-110. A letter was directed to the complainant on February 1, 1990, pointing out several problems with the complaints. Estes was given a period of time in which to file and serve amended complaints.

Estes filed an amended complaint on February 16, 1990. The essence of the complaint was that four individuals, *i.e.*, Robert Shilling (president of the SPOG), Karen Shilling (negotiator for the SPDG and spouse of Robert Shilling), Will Aitchison (attorney and negotiator for the SPOG and SPDG) and Lizanne Lyons (chief negotiator for the City of Seattle), had committed an unfair labor practice by agreeing to contract proposals in the latest SPOG collective bargaining agreement that allegedly benefitted only the City of Seattle and SPDG at the expense of the SPOG.¹ Estes had been assigned, as a police officer within the SPOG unit, to work in the employer's police dispatch center. He particularly takes issue with a contract provision that permits the employer to "replace members of the SPOG working in the positions of officer dispatchers and staff officer with members of the SPDG", and with an agreement that "the SPDG would be able to relieve members of the SPOG who were working in the capacity of "chief dispatcher" for lunch and breaks".

¹ These provisions are hereinafter referred to as the "civilianization" provisions.

Estes contends the SPOG acted arbitrarily in the negotiating process; that the SPOG and employer violated public policy by allowing non-sworn personnel to act in positions that require police powers and expertise; that SPOG President Shilling had a conflict of interest in agreeing to the contract provisions because his wife is a member of and negotiator for the SPDG; that attorney Aitchison had a conflict of interest despite disclosure of the conflict because he represented both unions; and that the SPOG has acted in bad faith by not fairly representing police officers in the communications center. Estes asked the Commission to decide whether the SPOG has violated its duty of fair representation, by negotiating a questionable contract provision allowing another union to replace SPOG members.

By order dated April 13, 1990, the Executive Director dismissed all three complaints for failure to state a cause of action. It was noted, inter alia, that the Commission does not assert jurisdiction to decide the kind of "public policy" issue raised by Estes, and that the Commission does not enforce the provisions of collective bargaining agreements through unfair labor practice proceedings. The Executive Director characterized Mr. Estes' various assertions as reflecting a difference of opinion between communications center police officers looking at preserving ten "inside" jobs, as against union leaders looking at an overall increase of 70 or more positions in the department and bargaining unit.²

In his petition for review, Estes raises three issues. He contends that the Executive Director erred in: (1) not allowing the claim that the SPOG contract violated public policy; (2) not admitting internal union procedures as evidence of the breach of duty of fair

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The "civilianization" of the communications center was conditioned upon the addition of 70 new police officer positions to the Seattle Police Department budget, and upon the reassignment of affected communication center officers to new positions within the department.

representation; and (3) not allowing the complainant to show that the SPDG and the employer committed an unfair labor practice by acting in concert with the SPOG president.

DISCUSSION

We have examined the amended complaint and the Executive Director's order of dismissal, and we find no error.

The Commission is not the proper forum for resolving generalized assertions that a contract agreement violates public policy.

Nor is the Commission a forum for every contention that the provisions of a collective bargaining agreement have been breached. The Commission has consistently refused to resolve "violation of contract" allegations through the unfair labor practice provisions of Chapter 41.56 RCW. City of Walla Walla, Decision 104 (PECB, 1976). If there has, in fact, been a violation of the SPOG contract, the remedy will have to come through the grievance and arbitration machinery of that contract.

The various factual assertions regarding alleged conflicts of interest, and regarding improprieties in negotiating, ratifying and enforcing the contract, etc., do present a duty of fair representation issue. Those factual assertions do not, however, support a conclusion that any duty of fair representation breach resulted from the kind of discrimination or union activity that will cause the Commission to assert jurisdiction. See, e.g., City of Pasco, Decision 2327 (PECB, 1986). Because of the surrounding circumstances, Mr. Estes has taken issue with the tradeoffs made by his union in bargaining. In collective bargaining, there is no statutory requirement that guarantees each member of the bargaining unit the accomplishment of their individual goals or even adoption of those goals by the union. Being involved in a collective

process necessarily requires the individual to submit to the will of the majority. A wide range of reasonableness must be allowed the statutory bargaining representative in serving the unit it represents.

At its heart, Mr. Estes' dispute with the SPOG appears to be based on internal union politics. Whether the SPOG violated its internal union procedures is a matter to be resolved in accordance with the applicable union constitution and bylaws. PERC does not assert jurisdiction in such matters.

Given the limited resources available to the Public Employment Relations Commission, and the availability of other forums to resolve Mr. Estes' claims, we concur with the Executive Director that the amended complaint does not present a cause of action over which PERC should assert jurisdiction.

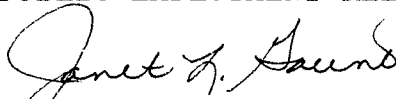
NOW, THEREFORE, it is

ORDERED

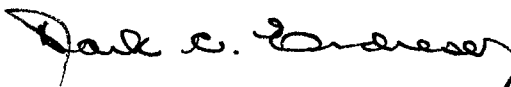
The order of dismissal issued by the Executive Director on April 13, 1990, is AFFIRMED.

Issued at Olympia, Washington, the 6th day of August, 1990.

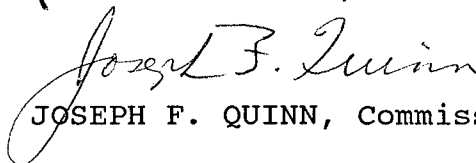
PUBLIC EMPLOYMENT RELATIONS COMMISSION



JANET L. GAUNT, Chairperson



MARK C. ENDRESEN, Commissioner



JOSEPH F. QUINN, Commissioner