

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

KING COUNTY, Employer.	
GRADY M. STROMAN, Complainant, vs. AMALGAMATED TRANSIT UNION LOCAL 587, Respondent.	CASE 134355-U-21 DECISION 13535 - PECB FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Grady M. Stroman, the complainant.

Munia Jabbar, Attorney at Law, Frank Freed Subit & Thomas LLP, for the Amalgamated Transit Union Local 587.

On July 27, 2021, Grady Michael Stroman (complainant), an employee with King County (employer), filed an unfair labor practice complaint against the Amalgamated Transit Union Local 587 (ATU or union). The employer is not a party in the case and is referenced for identification and jurisdictional purposes only. A second amended complaint was filed on September 8, 2021, and a preliminary ruling was issued on October 7, 2021, finding a cause of action. A virtual hearing was held on March 31 and April 1, 2022, before the undersigned Examiner. The parties filed post-hearing briefs by June 10, 2022, to complete the record.

ISSUES

The issues, as framed by the preliminary ruling, involve:

Union interference with employee rights in violation of RCW 41.56.150(1) within six months of the date the complaint was filed, by breaching its duty of fair representation in not responding to Grady Stroman when he requested his grievance be moved to the third step.

Union restraint and coercion in violation of RCW 41.56.150(1) within six months of the date the complaint was filed, by threats made to Grady Stroman after he filed a grievance.

The complainant has failed to carry the burden of proof demonstrating a breach in the union's duty of fair representation or unlawful interference in violation of RCW 41.56.150(1). The record does not support a conclusion that in assisting with, or through the processing of, the grievance filed by the complainant against the employer that the union's actions ever breached the duty of fair representation legally owed to its member. Similarly, there is not a sufficient level of credible or reliable evidence to demonstrate that the union made any threats toward, or interfered with, the complainant, including with respect to his work on the ATU Black Caucus, an unsanctioned organization comprised of local union members.

BACKGROUND

Stroman is a Transit Operator with King County Metro Transit and employed within a bargaining unit that is represented by ATU. The collective bargaining agreement (CBA) between the union and the employer is for a period of November 1, 2019, through October 31, 2022. Under Article 5, Section 2, Subsection F of the CBA, non-disciplinary grievances may progress through an internal three-step procedure culminating in a referral to arbitration, as decided upon by the union, if the dispute is not resolved. After an employee files an initial grievance under Step 1 of the CBA, the decision to advance any grievance to Step 2 and beyond, including the decision to refer the matter to arbitration, is vested exclusively in the union.

In October 2019, Stroman learned that approximately one and a half years earlier—in February 2018—a coworker allegedly made disparaging remarks about Stroman to several other coworkers at the workplace. The coworker was previously in a romantic relationship with Stroman, and the alleged remarks related to their personal relationship. Stroman was admittedly upset in

learning of the alleged remarks, and he eventually contacted the Human Resources manager for King County, Meg Safranek, to raise a concern over the comments. Following these initial communications, Stroman filed a formal complaint with Human Resources on December 18, 2019. Safranek investigated the matter and informed Stroman that while his coworker did not exercise good judgment in speaking about a personal relationship in the workplace, her remarks did not violate any specific policies or procedures and were not considered harassment under those provisions. Safranek also stated that the complaint from Stroman was not timely, as the comments were allegedly made in early 2018.

Stroman was upset and dissatisfied with how his complaint was resolved and continued to press Human Resources to take action. As part of his efforts, he requested that the employer discipline his coworker for the remarks; he alleged that the investigation into his complaint violated the employer's policy by not issuing written findings and was discriminatory toward him; and he objected to the determination that his complaint was not timely. Initially, Stroman engaged Safranek directly by demanding a more thorough investigation and offering more details about the personal life of his coworker. These exchanges prompted additional responses from Stroman's coworker and follow-up meetings between Safranek, Stroman, and the coworker. Ultimately, Safranek and Human Resources took no further action in the matter.

With no satisfactory resolution to his original complaint, Stroman, working with the union's chief shop steward, William Glenn (Bill) Clifford, filed a Step 1 grievance on April 9, 2020. In the grievance filing, Stroman alleged a violation of Article 2, Section 2 of the CBA, addressing nondiscrimination, and sought as a remedy a requirement that the employer conduct an investigation into his complaint regarding the comments allegedly made about him by his coworker. Clifford attended the Step 1 hearing with the employer on June 18, 2020, and Clifford submitted a three-page document that detailed the circumstances underlying the grievance; summarized the union's position on the matter; and outlined the alleged violations and requested remedies. During this period, Clifford's unrefuted testimony established that he spent between 40 to 60 hours of his time meeting with Stroman about this matter and doing his own research in

support of Stroman's claim. Following the Step 1 meeting the employer issued a written reply on July 8, 2020, denying Stroman's grievance in full.

Following the denial of the grievance at Step 1, management of the grievance was passed to Ronald (Ron) Anderson, the first vice president of the union, who oversees the grievance process on behalf of the union. Anderson has helped manage union grievances for approximately 20 years; he has been in his current role for the past four years. In assuming responsibility for the grievance, Anderson and Clifford discussed the situation, and Anderson began regular communications with Stroman about advancing the grievance further in the step procedure.

The union decided to advance Stroman's grievance to Step 2, and a hearing likely would have been scheduled to take place with the employer around August 2020. Prior to scheduling the Step 2 hearing, however, the union learned of Stroman's belief that the employer was in possession of a file possibly related to his complaint and relevant to the grievance. On August 18, 2020, Anderson submitted a request for information to the employer concerning all files related to the grievance and contact information for all related parties. The union asked that the Step 2 hearing be postponed until at least one week after receipt of the information.

For reasons not established in the record, several months passed before the employer provided the requested information. On March 26, 2021, Stroman informed Anderson that he had received information about his complaint from the employer's Human Resources department after submitting a request for his personnel file. Stroman subsequently told Anderson he was ready to proceed with the Step 2 hearing. Two days later, on March 28, 2021, Anderson responded to Stroman by email stating that he would request the Step 2 hearing be rescheduled with the employer.

The Step 2 grievance hearing was first rescheduled for April 19, 2021. When Stroman stated at the outset of the hearing that he had additional documentation that he did not bring with him nor had it been supplied to the union, the union asked to reschedule the hearing. Anderson asked Stroman to supply that information to the union before the rescheduled hearing. The Step 2 hearing was again rescheduled for May 4, 2021; both Anderson and Stroman were present. Stroman brought a

witness with him to the hearing, Latrelle Gibson, as well as a 33-page file that he had received from the employer but was not previously shared with the union. The employer accepted the file but stated that the union was entitled to a copy of the file as well. It was then made available to the union and placed into its internal file on this matter. On June 14, 2021, the employer issued its Step 2 grievance response and denied the grievance in its entirety.

Shortly after this denial, on June 17, 2021, Stroman emailed Anderson and other union officers a letter dated June 16, 2021, in which he requested that the grievance be advanced to Step 3. Anderson replied to Stroman on the same day, detailing the union's process before advancing any grievance to Step 3, which included obtaining a legal opinion from its attorney. As detailed by Anderson, the file transmitted to legal counsel for review includes the original grievance, any responses to the grievance, and any other supporting information or documentation, which in this case included the 33-page file received by Stroman. Soon after this email exchange, Anderson submitted the union's entire file to its attorney and sought a formal legal opinion on the grievance.

During this summer 2021 time frame, a meeting of the ATU 587 Black Caucus (Black Caucus) took place to discuss its leadership and, specifically, the status of Stroman as president of the Black Caucus. The Black Caucus was an informal group within the union that was founded by Stroman and another coworker, Penny L. Scott. The Black Caucus was formed as an independent group of union members where Black operators could discuss matters of concern, outside of the formal union structure. It also worked to promote various events of interest to the group, such as a luncheon as part of Black History Month. Stroman was elected to be the first president of the Black Caucus along with Gibson as first vice president, Scott as second vice president, and Loraine Marr as secretary.

During a conference call of the Black Caucus in summer 2021,¹ the topic of Stroman's continued leadership as president was discussed. There is significant dispute in the record as to who attended

¹ An email in the record identifies the date of the meeting as July 2, 2021, but the statement is considered hearsay and unreliable in establishing the exact date of the meeting. No testimony or additional exhibits were offered to verify the exact date of the meeting.

this meeting and what was said. Stroman's only witness, R.C. Demmings, testified he was present at the meeting in which Stroman's role as president was discussed. According to Demmings, several officers of the Black Caucus told Stroman that he needed to step down due to his ongoing grievance and the pressure those officers were experiencing from the union to have Stroman removed from the role as president. Demmings stated that he heard several officers at this meeting state that both Anderson and Ken Price, president of the union, had pressured them to have Stroman removed because of his pursuit of the grievance against the employer involving his coworker.

The credibility and veracity of Demmings' testimony, however, is undermined for several reasons. He was unable to account for many of the specifics around this meeting, including exactly when and where the meeting occurred and who was in attendance. His testimony, much of which is considered hearsay, could not recount who, specifically, among the officers of the Black Caucus, allegedly stated that they were being pressured by the union to have Stroman resign. Demmings attributed statements from the union to both Anderson and Price, but there were no details offered as to when, or to whom, these statements were allegedly made.

In addition to a lack of specificity in Demmings' testimony about the Black Caucus meeting, his testimony is also directly contradicted by several other witnesses and exhibits in the record. Scott testified that Demmings was never present at the meeting in which Stroman resigned as president and that there was no pressure from the union for Stroman to resign. According to Scott, Stroman himself initiated the discussion around his resignation and offered to step down without any pressure from the officers of the Black Caucus or the union. Scott testified that there was no tension around this decision; Stroman's decision was honored, and Scott was appointed as the new president. Clifford, also a member of the Black Caucus, testified that he never heard or received any indication from union leadership that they had any interest or desire to have Stroman step down as president or that his leadership role in the Black Caucus was in any way tied to his grievance. An email from Latrelle Gibson recounting the meeting at which Stroman resigned also specified that "the Union never explicitly stated that they wanted Mr. Stroman to step down" Anderson and Price also testified that the union had no position on Stroman's role in the Black

Caucus and that they never made any statements concerning Stroman's position as president of the Black Caucus, let alone tried to pressure Stroman to resign.

Ultimately, I credit the testimony and supporting documentary evidence to support the conclusion that the union did not threaten or pressure Stroman to resign as president of the Black Caucus. Notwithstanding Demmings' testimony to the contrary, the overall weight of the evidence supports a finding that the union never even took a position concerning Stroman's leadership role with the Black Caucus let alone ever pressured him to resign. There was no clear incentive or motive for the union to target Stroman's role as president both because the union controlled the decision to maintain the grievance, not Stroman, and the Black Caucus operated outside the operational structure of the union. Demmings' testimony concerning Stroman's decision to resign also lacked detail and failed to establish that he was even present at the meeting during which Stroman resigned.

On August 11, 2021, the union received a legal opinion from its attorney recommending that the grievance not be advanced to arbitration. Among other findings, the union's legal counsel determined it was unlikely that a violation of Article 2 could be proven or that Stroman's argument that the employer's investigation was inadequate would be viable in arbitration. Anderson testified that in completing its legal opinion, the union's legal counsel had represented that a full review of the file had been considered. Anderson reviewed the legal opinion and subsequently met with the union's legal counsel to discuss the opinion. After this review, Anderson decided the union would not advance the grievance to Step 3. On August 16, 2021, Anderson informed Stroman by email that the union's attorney had completed the legal review of the file and determined the union was unlikely to prevail in arbitration. By way of formal letter to Stroman from Anderson on August 19, 2021, the union confirmed that the grievance would not be advanced to Step 3.

ANALYSISApplicable Legal Standards*Duty of Fair Representation*

It is an unfair labor practice for a union to interfere with, restrain, or coerce public employees in the exercise of their rights. RCW 41.56.150(1). The duty of fair representation originated with United States Supreme Court decisions, holding that an exclusive bargaining representative has the duty to fairly represent all of those for whom it acts, without discrimination. *Steele v. Louisville & Nashville Railroad Co.*, 323 U.S. 192 (1944). The duty of fair representation arises from the rights and privileges held by a union when it is certified or recognized as the exclusive bargaining representative under a collective bargaining statute. *C-TRAN (Amalgamated Transit Union, Local 757)*, Decision 7087-B (PECB, 2002) (citing *City of Seattle (International Federation of Professional and Technical Engineers, Local 17)*, Decision 3199-B (PECB, 1991)).

The Commission is vested with authority to ensure that exclusive bargaining representatives safeguard employee rights. The Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute and does not assert jurisdiction over breach of duty of fair representation claims arising exclusively out of the processing of contractual grievances. *Bremerton School District*, Decision 5722-A (PECB, 1997). While the Commission does not assert jurisdiction over “breach of duty of fair representation” claims arising exclusively out of the processing of contractual grievances, the Commission does process other types of “breach of duty of fair representation” complaints against unions. *City of Port Townsend (Teamsters Local 589)*, Decision 6433-B (PECB, 2000).

A union breaches its duty of fair representation when its conduct is more than merely negligent; its actions must be arbitrary, discriminatory, or in bad faith; or be based on considerations that are irrelevant, invidious, or unfair. *City of Redmond (Redmond Employees Association)*, Decision 886 (PECB, 1980); *Vaca v. Sipes*, 386 U.S. 171 (1967). The employee claiming a breach of the duty of fair representation has the burden of proof. *City of Renton (Washington State Council of County and City Employees)*, Decision 1825 (PECB, 1984).

In *Allen v. Seattle Police Officers' Guild*, 100 Wn.2d 361 (1983), the Washington State Supreme Court adopted three standards to measure whether a union has breached its duty of fair representation:

1. The union must treat all factions and segments of its membership without hostility or discrimination.
2. The broad discretion of the union in asserting the rights of its individual members must be exercised in complete good faith and honesty.
3. The union must avoid arbitrary conduct.

Each of these requirements represents a distinct and separate obligation.

While an exclusive bargaining representative has the obligation to provide fair representation, the courts have recognized a wide range of flexibility in the standard to allow for union discretion in settling disputes. *Allen*, 100 Wn.2d at 375. There is no statutory requirement that a union must accomplish the goals of each bargaining unit member, and complete satisfaction of all represented employees is not expected. A union member's dissatisfaction with the level and skill of representation does not form the basis for a cause of action, unless the member can prove the union violated rights guaranteed in statutes administered by the Commission. *Dayton School District (Dayton Education Association)*, Decision 8042-A (EDUC, 2004).

Interference

Employees covered by chapter 41.56 RCW have the right to organize and designate representatives of their own choosing for purposes of collective bargaining or exercise other rights under the chapter free from interference, restraint, coercion, or discrimination. *Tumwater School District (Tumwater Office Professionals Association)*, Decision 12409-A (PECB, 2016). It is an unfair labor practice for a bargaining representative to interfere with, restrain, or coerce public employees in the exercise of rights guaranteed by chapter 41.56 RCW. RCW 41.56.150(1).

The right to be free from interference, restraint, coercion, or discrimination does not extend to every workplace complaint or dispute. *King County (Teamsters Local 117)*, Decision 12000-A (PECB, 2014). Similar to the National Labor Relations Act, chapter 41.56 RCW does not extend to employees the right to engage in protected concerted activities. *See City of Seattle*, Decision 489 (PECB, 1978), *aff'd*, Decision 489-A (PECB, 1979). The ability to participate in union affairs is a political right incident to union membership but not a civil or property right. *Seattle School District (Washington Education Association)*, Decision 9359-A (EDUC, 2007) (citing *Lewis County (Washington State Council of County and City Employees)*, Decision 464 (PECB, 1978), *aff'd*, Decision 464-A (PECB, 1978)). Complaints concerning internal union policies do not directly affect the employment relationship covered by chapter 41.56 RCW, and are, therefore, not actionable. *Seattle School District (Washington Education Association)*, Decision 9359-A (EDUC, 2007); *Seattle School District (International Union of Operating Engineers, Local 609)*, Decision 9135-B (PECB, 2007).

To establish union interference and coercion in violation of RCW 41.56.150(1), a complainant must establish the existence of “union tactics involving violence, intimidation and reprisals.” *Community College District 13 (Lower Columbia College)*, Decision 8117-B (PSRA, 2005) (citing *National Labor Relations Board v. Drivers Local 639*, 362 U.S. 274 (1960)). The standard for establishing an interference violation is whether the typical employee in similar circumstances reasonably could perceive the conduct as a threat of reprisal or force, or a promise of benefit, related to the pursuit of rights protected by the statute. *Community College 13 (Lower Columbia College)*, Decision 8117-B. A showing of intent is not required to prove an interference violation under RCW 41.56.150(1). *King County (Public Safety Employees Union)*, Decision 10183-A (PECB, 2008).

Application of Standards

For the following reasons, I find that the complaint must be dismissed. As framed by the preliminary ruling, the first cause of action centers on whether the union breached its duty of fair representation in failing to respond to the complainant regarding his request to advance the grievance in the step procedure. Questions around the processing of grievances under the contract,

including the union's decision to not advance the grievance to Step 3, are not at issue herein and can only be resolved in other judicial forums. The evidence introduced into the record does not support a conclusion that the union's conduct in communicating with Stroman about his grievance was in any way inherently arbitrary, discriminatory, or done in bad faith.

Likewise, the evidence does not support a conclusion that the union took any action, or made any threats, toward Stroman related to his grievance or with respect to his role in the Black Caucus that in any way interfered with any rights protected by chapter 41.56 RCW. Not only is Stroman unable to meet his burden of proof that the union ever made any threats toward him, the preponderance of evidence demonstrates the precise opposite—that no such threats were ever made by the union. Additionally, even if the limited evidence submitted by Stroman were conclusive in establishing some threat was made, which is not the case, Stroman failed to prove his role in the Black Caucus constituted a right protected by chapter 41.56 RCW. In the absence of a documented protected right, there cannot be, by definition, unlawful interference.

Duty of Fair Representation

During the six-month period leading up to the filing of the complaint, the record cannot support a conclusion that the union in any way breached its duty of fair representation to Stroman. The main reason in support of this conclusion is that, to the contrary, the record is replete with examples and instances of the union maintaining both timely and responsive communications with Stroman regarding his grievance throughout the process. Although outside the scope of the statute of limitations, the background details in this case demonstrate a pattern in which the union worked closely with Stroman regarding his grievance and followed up with regular and timely responses. Clifford, the union's shop steward, testified that he spent between 40 to 60 hours of his time communicating with Stroman about his grievance and drafting the union's statement of support for the initial filing of the grievance. Clifford attended the Step 1 grievance and advocated for Stroman's position. After the Step 1 denial, Anderson took over processing the grievance and almost immediately made a request for information concerning the investigatory file and timely moved the grievance to Step 2.

In March 2021, once Stroman notified the union as to the receipt of the investigatory materials from his personnel file, Anderson, on behalf of the union, replied to Stroman within a couple days and took immediate action to reschedule the Step 2 hearing. Anderson remained in regular contact with Stroman about the Step 2 hearing, including the need to reschedule it for a second time, and participated in the Step 2 hearing with Stroman and the employer. Following the denial of the grievance at Step 2, Anderson was again in almost immediate communication with Stroman detailing the union's process before moving a grievance to Step 3. Shortly thereafter, Anderson in fact transmitted the union's entire case file to its legal counsel for review. Within days of receiving a legal opinion back from its attorney, Anderson communicated as much back to Stroman. Shortly thereafter, Anderson both emailed and mailed a formal letter notifying Stroman of the union's decision not to advance the grievance to Step 3 after completing its legal review as to the merits of the grievance.

Throughout these efforts and across these various communications, the record lacks any evidence to prove the union acted toward Stroman in a way that was arbitrary, discriminatory, or in bad faith. The union met, and regularly communicated, with Stroman; advocated for Stroman both in writing and verbally at the step hearings; and sought information on his behalf to support his grievance. There was some delay in receiving information from the employer about Stroman's complaint and the associated investigation as well as minimal communication between Stroman and the union during this time. But the record fails to establish any actions or motive in this regard by the union that could arguably constitute arbitrary, invidious, or unfair actions toward Stroman.

Based on these efforts and interactions, it is not reasonable to conclude that the line evidencing a breach of the union's duty of representation can even be seen in this case let alone conclusively crossed. In fact, while not the union's burden in this case, it has detailed a set of actions that were both responsive and considerate of Stroman's interest in this matter of processing his grievance through the internal step procedure as outlined in the CBA.

The analysis here necessarily excludes the union's ultimate determination to not advance the grievance to Step 3 and arbitration. Decisions around the processing of grievances, including a decision whether to advance a grievance to arbitration, are outside the scope of the jurisdiction

exercised by the agency. Although the union did submit evidence as to its process in considering when to advance grievances to Step 3, including a comprehensive review of the entire case file and obtaining a legal opinion from its attorney, the merits and adequacy of such a process are not considered herein and must be pursued in other judicial forums as needed.

Interference

The only evidence and argument submitted by Stroman as to any alleged threat from the union that could constitute unlawful interference relates to his resignation as president of the Black Caucus. The evidence on this point, however, does not rise to a level in which Stroman can carry his burden of proof with respect to this allegation. I credit the testimony of the union's multiple witnesses who testified about Stroman's position as the president of the Black Caucus and that the union never applied any pressure, or even took a position, concerning Stroman's role in the Black Caucus. Notwithstanding Demmings' testimony, which I find to lack credibility, the record is devoid of evidence of any threats made toward Stroman from anyone within the union regarding his grievance or his role as president of the Black Caucus.

Although intent is not required to prove interference, the record also lacks proof as to a rationale for the union to take any action concerning Stroman's position with the Black Caucus, which critically diminishes the probability that any threats were made. Under the CBA, the decision to advance the grievance beyond Step 1 is vested exclusively with the union. With that in mind, the union had no need to pressure Stroman to "drop the grievance" because it was not Stroman's decision to maintain the grievance in the first place. It is also unclear as to why, even if there was evidence that the union wanted to pressure Stroman, that it would do so through his role in the Black Caucus. The Black Caucus did not hold any formal role within the union. It was started through the initiative of some union members but operated wholly outside the structure of the union. Given this disposition, even if there was some evidence that the union wanted to interfere with Stroman's rights, there is not a clear reason as to why it would target his role in the Black Caucus. This lack of motive further evidences the fact that the union made no threat related to any component of Stroman's grievance.

While lacking proof of any threats, the interference claim also necessarily fails because Stroman has not proven he was exercising any protected right with respect to his role in the Black Caucus.² The individual rights protected under chapter 41.56 RCW include the right of employees to designate a representative of their own choosing, including the right to change representation.³ None of those rights extend to Stroman's participation in the Black Caucus or his role as an officer in that organization. The Black Caucus is not a designated bargaining representative and could not be since the union is the exclusive bargaining representative by law. Nothing in the record suggests the Black Caucus ever sought any formal role as the representative of the bargaining unit currently represented by the union. It is not a formal organization within the union nor is it officially sanctioned in any way by the union. Even if the Black Caucus held a more formal position within the union, the agency's jurisdiction is heavily circumscribed in the arena of internal union affairs. In the past, the agency has noted that such disputes must be resolved through the union's internal procedures or the courts unless they involve a specific right protected by statute or through enforcement of the duty of fair representation.⁴

Setting aside the fact of the complainant's limited evidence concerning any alleged threats ever made by the union, this allegation is undermined by the fact that any alleged threat is not connected to a right protected by chapter 41.56 RCW. Stroman's role as president of the Black Caucus and his decision to resign is, at best, an internal union matter and not a protected activity. As noted by the agency, the collective bargaining statute does not protect employees from interference or discrimination connected to all potential workplace disputes or complaints. For that reason alone, the interference claim necessarily fails.

² The right to pursue a grievance is protected under chapter 41.56 RCW. However, there is no evidence in the record that any alleged threats were made by the union directly pertaining to the grievance. Instead, the only evidence and argument submitted by the complainant about alleged threats pertain to his role as president of the Black Caucus. As a result, the analysis here necessarily focuses on that singular event.

³ *King County (Teamsters Local 117)*, Decision 12000-A.

⁴ *Seattle School District (International Union of Operating Engineers, Local 609)*, Decision 9135-B (citing *Enumclaw School District (Public School Employees of Washington)*, Decision 5979 (PECB, 1997)).

CONCLUSION

The union did not breach its duty of fair representation through its communication with, and support of, Stroman in the grievance filed against the employer concerning alleged statements made about him by a coworker. The record does not support a conclusion that the union failed in any way to respond to Stroman's efforts to pursue his grievance let alone acted in a manner that could reasonably constitute arbitrary, discriminatory, or bad faith conduct. Likewise, Stroman failed to carry his burden of proof that the union ever made any threats toward him related to his grievance, including his role as president of the Black Caucus, that might constitute unlawful interference.

FINDINGS OF FACT

1. King County is a public employer as defined by RCW 41.56.030(13).
2. The Amalgamated Transit Union Local 587 (ATU) is a bargaining representative within the meaning of RCW 41.56.030(2) and represents a bargaining unit of transit operators with the employer, King County.
3. Grady M. Stroman, the complainant, is a Transit Operator with King County Metro Transit and employed within a bargaining unit that is represented by ATU.
4. In October 2019, Stroman learned that in February 2018 a coworker allegedly made disparaging remarks about Stroman to several other coworkers at the workplace. The coworker was previously in a romantic relationship with Stroman, and the alleged remarks related to their personal relationship. Stroman was admittedly upset in learning of the alleged remarks, and he eventually contacted the Human Resources manager for King County, Meg Safranek, to raise a concern over the comments.
5. Following these initial communications with Safranek, Stroman filed a formal complaint with Human Resources on December 18, 2019. Safranek investigated the matter and informed Stroman that while his coworker did not exercise good judgment in speaking

about a personal relationship in the workplace, her remarks did not violate any specific policies or procedures and were not considered harassment under those provisions. Safranek also stated that the complaint from Stroman was not timely, as the comments were allegedly made in early 2018.

6. Dissatisfied with how his complaint was resolved, Stroman continued to press Human Resources to take action. As part of his efforts, he requested that the employer discipline his coworker for the remarks; he alleged that the investigation into his complaint violated the employer's policy by not issuing written findings and was discriminatory toward him; and he objected to the determination that his complaint was not timely. Initially, Stroman engaged Safranek directly by demanding a more thorough investigation and offering more details about the personal life of his coworker. These exchanges prompted additional responses from Stroman's coworker and follow-up meetings between Safranek, Stroman, and the coworker. Ultimately, Safranek and Human Resources took no further action in the matter.
7. With no satisfactory resolution to his original complaint, Stroman, working with the union's chief shop steward, William Glenn (Bill) Clifford, filed a Step 1 grievance on April 9, 2020. In the grievance filing, Stroman alleged a violation of Article 2, Section 2 of the collective bargaining agreement, addressing nondiscrimination, and sought as a remedy a requirement that the employer conduct an investigation into his complaint regarding the comments allegedly made about him by his coworker.
8. During most of the events giving rise to the grievance, ATU and the employer were parties to a collective bargaining agreement for a period of November 1, 2019, through October 31, 2022. Under Article 5, Section 2, Subsection F of the collective bargaining agreement, non-disciplinary grievances may progress through an internal three-step procedure culminating in a referral to arbitration, as decided upon by the union, if the dispute is not resolved. After an employee files an initial grievance under Step 1 of the CBA, the decision to advance any grievance to Step 2 and beyond, including the decision to refer the matter to arbitration, is vested exclusively in the union.

9. A Step 1 hearing was scheduled by the parties for June 18, 2020. Clifford attended the Step 1 hearing with the employer and submitted a three-page supporting document. The written submission detailed the circumstances underlying the grievance; summarized the union's position on the matter; and outlined the alleged violations and requested remedies. During this period, Clifford's unrefuted testimony established that he spent between 40 to 60 hours of his time meeting with Stroman about this matter and doing his own research in support of Stroman's claim.
10. Following the Step 1 meeting the employer issued a written reply on July 8, 2020, denying Stroman's grievance in full.
11. Following the denial of the grievance at Step 1, management of the grievance was passed to Ronald (Ron) Anderson, the first vice president of the union, who oversees the grievance process on behalf of the union. Anderson has helped manage union grievances for approximately 20 years; he has been in his current role for the past four years. In assuming responsibility for the grievance, Anderson and Clifford discussed the situation, and Anderson began regular communications with Stroman about advancing the grievance further in the step procedure.
12. The union decided to advance Stroman's grievance to Step 2, and a hearing likely would have been scheduled to take place with the employer around August 2020. Prior to scheduling the Step 2 hearing, however, the union learned of Stroman's belief that the employer was in possession of a file possibly related to his complaint and relevant to the grievance. On August 18, 2020, Anderson submitted a request for information to the employer concerning all files related to the grievance and contact information for all related parties. The union asked that the Step 2 hearing be postponed until at least one week after receipt of the information.
13. For reasons not established in the record, several months passed before the employer provided the requested information. On March 26, 2021, Stroman informed Anderson that he had received information about his complaint from the employer's Human Resources department after submitting a request for his personnel file. Stroman subsequently told

Anderson he was ready to proceed with the Step 2 hearing. Two days later, on March 28, 2021, Anderson responded to Stroman by email stating that he would request the Step 2 hearing be rescheduled with the employer.

14. The Step 2 grievance hearing was first rescheduled for April 19, 2021. When Stroman stated at the outset of the hearing that he had additional documentation that he did not bring with him nor had it been supplied to the union, the union asked to reschedule the hearing. Anderson asked Stroman to supply that information to the union before the rescheduled hearing. The Step 2 hearing was again rescheduled for May 4, 2021; both Anderson and Stroman were present. Stroman brought a witness with him to the hearing, Latrelle Gibson, as well as a 33-page file that he had received from the employer but was not previously shared with the union. The employer accepted the file but stated that the union was entitled to a copy of the file as well. It was then made available to the union and placed into its internal file on this matter.
15. On June 14, 2021, the employer issued its Step 2 grievance response and denied the grievance in its entirety.
16. Shortly after this denial, on June 17, 2021, Stroman emailed Anderson and other union officers a letter dated June 16, 2021, in which he requested that the grievance be advanced to Step 3. Anderson replied to Stroman on the same day, detailing the union's process before advancing any grievance to Step 3, which included obtaining a legal opinion from its attorney. As detailed by Anderson, the file transmitted to legal counsel for review includes the original grievance, any responses to the grievance, and any other supporting information or documentation, which in this case included the 33-page file received by Stroman. Soon after this email exchange, Anderson submitted the union's entire file to its attorney and sought a formal legal opinion on the grievance.
17. During this summer 2021 time frame, a meeting of the ATU 587 Black Caucus (Black Caucus) took place to discuss its leadership and, specifically, the status of Stroman as president of the Black Caucus. The Black Caucus was an informal group within the union that was founded by Stroman and another coworker, Penny L. Scott. The Black Caucus

was formed as an independent group of union members where Black operators could discuss matters of concern, outside of the formal union structure. It also worked to promote various events of interest to the group, such as a luncheon as part of Black History Month. Stroman was elected to be the first president of the Black Caucus along with Gibson as first vice president, Scott as second vice president, and Loraine Marr as secretary.

18. Present during the conference call for the Black Caucus was second vice president Penny Scott. Scott credibly testified that Stroman initiated a discussion around his resignation at this meeting and offered to step down as president. According to Scott, there was no tension among the officers around Stroman's decision and there was no pressure applied to Stroman to resign from either the officers of the Black Caucus or the union. An email from Latrelle Gibson, another officer of the Black Caucus, recounting the meeting at which Stroman resigned also specified that "the Union never explicitly stated that they wanted Mr. Stroman to step down" Stroman tendered his resignation during the call, and it was subsequently decided that Scott would take over as president.
19. Bill Clifford, also a member of the Black Caucus, testified that he never heard or received any indication from union leadership that they had any interest or desire to have Stroman step down as president or that his leadership role in the Black Caucus was in any way tied to his grievance. Anderson and Ken Price, president of the union, also testified that the union had no position on Stroman's role in the Black Caucus and that they never made any statements concerning Stroman's position as president of the Black Caucus, let alone tried to pressure Stroman to resign.
20. On August 11, 2021, the union received a legal opinion from its attorney recommending that the grievance not be advanced to arbitration. Among other findings, the union's legal counsel determined it was unlikely that a violation of Article 2 could be proven or that Stroman's argument that the employer's investigation was inadequate would be viable in arbitration. Anderson testified that in completing its legal opinion, the union's legal counsel had represented that a full review of the file had been considered. Anderson reviewed the legal opinion and subsequently met with the union's legal counsel to discuss the opinion.

After this review, Anderson decided the union would not advance the grievance to Step 3. On August 16, 2021, Anderson informed Stroman by email that the union's attorney had completed the legal review of the file and determined the union was unlikely to prevail in arbitration. By way of formal letter to Stroman from Anderson on August 19, 2021, the union confirmed that the grievance would not be advanced to Step 3.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under chapter 41.56 RCW and chapter 391-45 WAC.
2. As described in findings of fact 4–16, and 20, the union did not interfere with employee rights in violation of RCW 41.56.150(1) by breaching its duty of fair representation in not responding to Grady Stroman when he requested his grievance be moved to the third step.
3. As described in findings of fact 17–19, the union did not restraint or coerce employee rights in violation of RCW 41.56.150(1) through any threats or other actions made or directed toward Stroman after he filed his grievance.

ORDER

The complaint charging unfair labor practices filed in the above-captioned matter is DISMISSED.

ISSUED at Olympia, Washington, this 22nd day of July, 2022.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



CHRISTOPHER J. CASILLAS, Examiner

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.



RECORD OF SERVICE

ISSUED ON 07/22/2022

DECISION 13535 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: AMY RIGGS

CASE 134355-U-21

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