

STATE OF WASHINGTON

BEFORE THE MARINE EMPLOYEES' COMMISSION

ROBERT A. SEPAROVICH,	)	MEC Case No. 19-99
	)	
Complainant,	)	
	)	DECISION NO. 221 - MEC
v.	)	
	)	MEC CHAIRMAN'S
INTERNATIONAL	)	ORDER OF DISMISSAL
ORGANIZATION OF MASTERS,	)	
MATES AND PILOTS, PACIFIC	)	
MARITIME REGION and	)	
WASHINGTON STATE FERRIES,	)	
	)	
Respondent.	)	

Robert A. Separovich, Washington State Ferries employee, appearing for and on behalf of himself.

Steven N. Ross, attorney at law, appearing for and on behalf of the International Organization of Masters, Mates and Pilots.

Christine Gregoire, Attorney General, by David Slown, Assistant Attorney General, appearing for and on behalf of the Washington State Ferries.

This matter came on regularly before the Marine Employees' Commission on November 29, 1999, when Robert A. Separovich filed an unfair labor practice complaint against the International Organization of Masters, Mates and Pilots (MM&P) and Washington State Ferries (WSF). Mr. Separovich charged MM&P and WSF with violation of RCW 47.64.130 and WAC 316-45-003.

Mr. Separovich alleges that "Bad faith representation by Masters, Mates and Pilots Union behaving and acting in such a manner which was so negligent, wherein they failed in their duty to fairly and adequately represent a member of the union." A detailed statement was attached to the charge. The cause started in April of 1995 and concluded in

November 1998. It involved a work injury by Mr. Separovich and his quest for information from the employer, Washington State Ferries.

This matter was docketed as MEC Case No. 19-99. A letter acknowledging receipt of the unfair labor practice complaint was sent to the parties on December 1, 1999.

#### REVIEW BY CHAIRMAN

Pursuant to WAC 316-45-110, MEC Chairman Henry L. Chiles, Jr. has reviewed the facts alleged in the unfair labor practice charge, including the extensive supporting materials submitted by Mr. Separovich and determined that:

1. The facts alleged by Mr. Separovich in his complaint, if true and proven, would not constitute unfair labor practices within the meaning of RCW 47.64.130.
2. Mr. Separovich has been represented by the MM&P in at least two recent matters before the MEC or an arbitrator. In his statement, Mr. Separovich was represented by the MM&P in a grievance before arbitrator Beck. The MM&P also pursued matters before the MEC on behalf of Mr. Separovich in Case No .11-99.

Labor organizations are granted a great deal of latitude in how they represent members. Mere negligence alone is not enough to find a violation. Great Western Unifreight System, 209 NLRB 446 (1974).

3. The facts alleged by Mr. Separovich in support of the charge took place between 1995 and 1998. WAC 316-45-020(1) specifies that “a complaint charging an unfair labor practice may not be filed later than one hundred eighty calendar days after the party filing such complaint knew or should have known of the event, activity, or practice alleged to be violations of protected rights under RCW 47.64.130 and WAC 316-45-003.”

The acts alleged by Mr. Separovich as violations of RCW 47.64.130 occurred more than one year prior to the filing of the charge. They are too old, time-barred and cannot be considered by this Commission. See Bord R. Langvold v. WSF, Decision No. 210-MEC (MEC Case No. 3-99).

### ORDER

Based on the reasons set forth herein, Chairman Chiles orders that the charges of unfair labor practices contained in MEC Case No. 19-99 are dismissed.

### RIGHT TO PETITION FOR REVIEW

Pursuant to WAC 316-45-110, a complaint dismissed by an individual commission member shall be subject to a petition for review as provided in WAC 316-45-350. A petition for review of this decision must be filed within twenty days following the date of the order. The petition for review shall be filed with the Commission at its office in Olympia. A copy of the petition must be served on the MM&P and WSF. MM&P and WSF will have fourteen days following the date on which it is served with a copy of the Petition for Review to file a responsive brief or written argument. In the event no timely Petition for Review is filed and no action taken by the Commission on its own motion within thirty days following the Chairman's Order of Dismissal, the Order shall automatically become the order of the MEC and shall have the same force and effect as if issued by the Commission.

DATED this \_\_\_\_\_ day of December 1999.

MARINE EMPLOYEES' COMMISSION

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HENRY L. CHILES, JR., Chairman