

D.R. NO. 78-42

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

COUNTY OF SOMERSET,

Public Employer,

-and-

SOMERSET COUNTY SHERIFF'S
DEPARTMENT, PBA LOCAL 272,

DOCKET NO. RO-78-63

Petitioner,

-and-

SOMERSET COUNTY SHERIFF'S
OFFICERS, PBA LOCAL 177,

Intervenor.

SYNOPSIS

The Director of Representation, pursuant to an investigation which revealed no substantial and material factual issues in dispute, dismisses a Petition for Certification of Public Employee Representative filed by the Petitioner seeking to sever sheriff's officers from a certified unit of sheriff's officers and corrections officers. The Director finds the proposed unit inappropriate in light of the Commission's long standing policy preferring broad-based units at county level and the limited circumstances in which the Commission will permit severance of employees from otherwise appropriate units.

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OFFICERS, PBA LOCAL 177,

Intervenor.

Appearances:

For the Public Employer
Lanigan, O'Connell & Hirsh, Esqs.
(William W. Lanigan, of Counsel)

For the Petitioner
Richardson & O'Connor, Esqs.
(James C. Richardson, of Counsel)

For the Intervenor
Chase, Rzemieniewski & Gorney, Esqs.
(Donald C. Chase, of Counsel)

DECISION

On September 27, 1978, a Petition for Certification of Employee Representative, supported by an adequate showing of interest, was filed with the Public Employment Relations Commission (the "Commission") by the Somerset County Sheriff's Department, PBA Local 272 ("Local 272") with respect to a unit of sheriff's

officers employed by the County of Somerset (the "County") but excluding correction officers.

The undersigned has caused an investigation to be conducted into the matters and allegations set forth in the Petition in order to determine the facts. All parties were advised of their obligations under the provisions of N.J.A.C. 19:11-2.6(a), and were afforded an opportunity thereunder to present documentary and other evidence, as well as statements of position relating to the Petition.

On the basis of the administrative investigation herein, the undersigned finds and determines as follows:

1. The disposition of this matter is properly based upon the investigation herein, it appearing that no substantial and material factual issues exist which may more appropriately be resolved after a hearing. Pursuant to N.J.A.C. 19:11-2.6(b), there is no necessity for a hearing where, as here, no substantial and material factual issues have been placed in dispute by the parties.

2. The County of Somerset is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., as amended (the "Act"), is the employer of the employees involved herein, and is subject to the Act's provisions.

3. The Somerset County Sheriff's Department, PBA Local 272 and the Somerset County Sheriff's Officers, PBA Local 177

("Local 177") are employee representatives within the meaning of the Act and are subject to its provisions.

4. Local 177 was certified by the Commission as the exclusive representative of a unit of "All Correction and Sheriff's Officers employed by Somerset County" on April 6, 1972. The recognition clause of the most recent collective negotiations agreement between the County and Local 177 covers "Sheriff's Officers, Lieutenant Correction Officers, Captain Correction Officers, Sergeant Correction Officers and Correction Officers of the Somerset County Sheriff's Office and Somerset County Jail."

5. Local 272 seeks a unit of employees including all sheriff's officers but excluding corrections officers.

6. In a letter dated October 12, 1977, the County certified that the usual Notice to Public Employees had been posted, furnished an alphabetical listing of the employees described in the Petition together with their job classifications and indicated a willingness to proceed to a secret ballot election. During the investigation, the County stated that it would be bound by a settlement between Local 272 and Local 177 concerning the question of unit appropriateness.

7. Local 177 has indicated that it will not consent to a secret ballot election herein. It contends that the petitioned-for employees are and have been fairly represented for the purposes of collective negotiations in the unit which it represents.

Local 177 further contends that no justification exists for severing the petitioned-for employees from the existing unit and that the existing unit is the most appropriate unit. For these reasons, Local 177 requests that the instant Petition be dismissed.

8. Local 272 has not alleged that Local 177 has breached its duty to fairly represent all unit members.

9. The unit of sheriff's officers sought by Local 272 is a portion of the unit which has been certified by the Commission and recognized by contract. Local 272's filing represents an attempt to sever the petitioned-for employees from the existing unit.

10. On April 7, 1978, the undersigned advised the parties of the results of the investigation, and indicated that, in light of the Commission's long standing policy preferring broad-based units at county level and the limited circumstances in which the Commission will permit severance of employees from otherwise appropriate units, ^{1/} the proposed unit was not appropriate. Local 272 was provided with an additional period of time to present the undersigned with evidence raising substantial and material disputed factual issues which would warrant the convening of an evidentiary hearing. No evidence has been provided in response to the undersigned's request; nor has Local 272 filed a statement of position.

1/ In re Jefferson Township Board of Education, P.E.R.C. No. 61 (1971).

Accordingly, the undersigned, for the aforementioned reasons, finds the proposed unit to be inappropriate and hereby dismisses the Petition.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: May 4, 1978
Trenton, New Jersey