

D.U.P. No. 2007-6

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION  
BEFORE THE DIRECTOR OF UNFAIR PRACTICES

In the Matter of

NEW JERSEY STATE PAROLE BOARD,

Respondent,

-and-

Docket No. CI-2006-028

JOSEPH MARTIN,

Charging Party.

**SYNOPSIS**

The Director of Unfair Practices dismissed a charge alleging the State violated the Act by the manner in which it handled and/or responded to certain grievances. The Director concluded the Commission's complaint issuance standards were not met.

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Appearances:

For the Respondent,  
Stuart Rabner, Attorney Counsel  
(Geri Benedetto, Deputy Attorney Counsel)

For the Charging Party,  
Joseph Martin, pro se

**REFUSAL TO ISSUE COMPLAINT**

**Summary**

Joseph Martin filed an unfair practice charge alleging that the New Jersey State Parole Board (State) violated the New Jersey Employer-Employee Relations Act (Act). The Act protects employees for engaging in union and certain concerted activities. Martin claims the State engaged in threats, intimidation and other improper conduct regarding the processing of grievances. The State denies the claims and asserts the allegations do not violate the Act. I found a complaint was not warranted and dismissed the charge.

**Procedural Background**

On January 9, 2006, Martin filed his unfair practice charge against the State alleging violations of N.J.S.A. 34:13A-5.4a(1), (4), (5) and (7)<sup>1/</sup>. Martin alleges that in the last six months,

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<sup>1/</sup> These provisions prohibit public employers, their  
(continued...)

the State has discriminated against his union's representation of its members by: 1) refusing to address defined issues and pending grievances; 2) attempting to coerce the union representative into withdrawing pending grievances by threats and intimidation; 3) withdrawing previously negotiated settlements and 4) failing to impartially, accurately and fairly consider Step 2 grievances. According to Martin, the State has violated the Commission's rules and regulations through these actions; Martin seeks several remedies through his charge.

The State denies violating the Act. It claims that the instant charge is nothing more than a disgruntled employee's attempt to litigate resolved or pending grievance arbitrations and does not state an unfair practice for which relief can be granted under the Act. Moreover, it asserts that the remedies sought by Martin cannot properly be granted by the Commission.

The Commission has authority to issue a complaint where it appears that the Charging Party's allegations, if true, may

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1/ (...continued)  
representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (4) Discharging or otherwise discriminating against any employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this act. (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative. (7) Violating any of the rules and regulations established by the Commission."

constitute an unfair practice within the meaning of the Act. N.J.S.A. 34:13A-5.4c; N.J.A.C. 19:14-2.1. That authority has been delegated to me. Where the complaint issuance standard has not been met, I may decline to issue a complaint. N.J.A.C. 19:14-2.3. In correspondence dated November 29, 2006, I advised the parties that I was not inclined to issue a complaint in this matter and set forth the basis upon which I arrived at that conclusion. I provided the parties with an opportunity to respond. Neither party filed a response. Accordingly, I find that the complaint issuance standard has not been met.

#### **Pertinent Facts**

Joseph Martin is employed by the State as a parole officer and is a member of FOP Lodge 200, the former majority representative of a collective negotiations unit of law enforcement officers employed by the State. Since late 2004, Martin has filed numerous grievances against the State. On May 24, 2006, PBA Local 105 was certified to represent the State Law enforcement unit. State of New Jersey, D.R. 2006-18, 32 NJPER 145 (¶66 2006). All of Martin's grievances have been entertained by the State through the contractual grievance procedure included in the collective negotiations agreement.

#### **ANALYSIS**

Martin's allegations do not meet our complaint issuance standard.

N.J.A.C. 19:14-1.3(a)3 provides that a charge must contain the following:

A clear and concise statement of the facts constituting the alleged unfair practice. The statement must specify the time and place the alleged acts occurred, the name of the persons alleged to have committed such acts and the subsection(s) of the Act alleged to have been violated.

Martin's allegations lack the specificity required by the above rule. He fails to specify the date of the alleged unlawful actions by the State, simply asserting that the State violated the Act "in the last six months". Further, he does not indicate the place of the alleged unlawful actions, the names of the persons who allegedly committed them, nor any details related to them. Without enhancement, I find the allegations do not comply with N.J.A.C. 19:14-1.3(a)3, and must be dismissed.<sup>2/</sup>

Notwithstanding the above, Martin's allegations that the State unlawfully refused to address issues and pending grievances appears to allege a 5.4a(5) allegation. An individual employee, however, normally does not have standing to assert an a(5) violation because the employer's duty to negotiate in good faith runs only to a majority representative.<sup>3/</sup>

Consequently, that allegation should be dismissed.<sup>4/</sup>

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2/ See Trenton Bd of Ed. (Queval), D.U.P. No. 2000-8, 25 NJPER 437 (¶30192 1999); CWA (Williams), D.U.P. No. 95-7 20 NJPER 417 (¶ 25213 1994).

3/ N.J. Turnpike Authority, P.E.R.C. No. 81-64, 6 NJPER 560 (¶11284 1980), aff'd NJPER Supp.2d 101 (¶85 App. Div. 1981); Camden Cty. Highway Dept., D.U.P. No. 84-32, 10 NJPER 399 (¶15185 1984).

4/ N.J. Turnpike Authority. Jersey City College, D.U.P. No. 97-18, 23 NJPER 1 (¶28001 1996).

I also dismiss Martin's a(7) allegation because Martin raises no allegations or facts to support a finding that this subsection was violated and, indeed, fails to even specify which Commission rule or regulation that was allegedly violated.<sup>5/</sup>

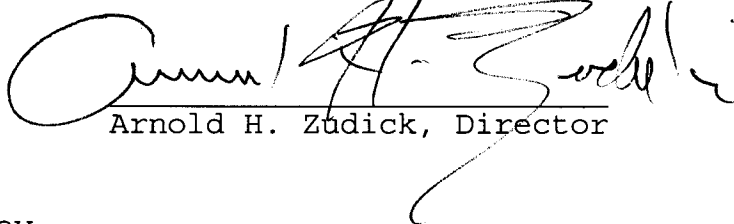
Finally, Martin raises no allegations or facts in support of his 5.4a(4) allegation. Thus, that allegation must also be dismissed.

Accordingly, I find that the Commission's complaint issuance standard has not been met and I decline to issue a complaint on the allegations of this charge.<sup>6/</sup>

**ORDER**

The unfair practice charge is dismissed.

BY ORDER OF THE DIRECTOR  
OF UNFAIR PRACTICES



Arnold H. Zudick, Director

DATED: December 21, 2006  
Trenton, New Jersey

**This decision may be appealed to the Commission pursuant to N.J.A.C. 19:14-2.3.**

**Any appeal is due by January 2, 2007.**

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<sup>5/</sup> Burlington Tp. Bd. of Ed., D.U.P. No. 97-31, 23 NJPER 152  
(¶28073 1997).

<sup>6/</sup> N.J.A.C. 19:14-2.3.