

D.U.P. NO. 85-2

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE ADMINISTRATOR OF UNFAIR PRACTICE PROCEEDINGS

In the Matter of

JERSEY CITY POLICE OFFICERS
BENEVOLENT ASSOCIATION,

Respondent,

-and-

DOCKET NO. CI-84-85

DENNIS O'CONNELL,

Charging Party.

SYNOPSIS

The Administrator of Unfair Practice Proceedings declines to issue a complaint with respect to alleged unfairness in an internal union election campaign, wherein the Charging Party was a candidate for union office. Noting that the alleged conduct, if true, concerned exclusively internal union matters, the Administrator determines that the Commission is not the proper forum to present claims relating to allegedly unreasonable qualification rules for holding union office and relating to access to union membership lists.

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Appearances:

For the Respondent
Schneider, Cohen & Solomon, attorneys
(David Solomon of counsel)

For the Charging Party
Dennis O'Connell, pro se

REFUSAL TO ISSUE COMPLAINT

On June 4, 1984, an Unfair Practice Charge was filed with the Public Employment Relations Commission ("Commission") by Dennis O'Connell ("Charging Party") against the Jersey City Police Officers Benevolent Association ("Respondent" or "Association") alleging that the Respondent engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"). Specifically, Charging Party alleged that Respondent interfered with his candidacy for office

in an internal union election, allegedly in violation of N.J.S.A. 5.4(b)(1). ^{1/}

N.J.S.A. 34:13A-5.4(c) sets forth in pertinent part that the Commission shall have the power to prevent anyone from engaging in any unfair practice, and that it has the authority to issue a complaint stating the unfair practice charge. ^{2/} The Commission has delegated its authority to issue complaints to the undersigned and has established a standard upon which an unfair practice complaint may be issued. The standard provides that a complaint shall issue if it appears that the allegations of the charging party, if true, may constitute an unfair practice within the meaning of the Act and that formal proceedings in respect thereto should be instituted in order to afford the parties an opportunity to litigate relevant legal and factual issues. ^{3/} The Commission's rules provide that the undersigned may decline to issue a complaint. ^{4/}

For the reasons stated below it appears to the undersigned that the Commission's complaint issuance standards have not been met.

^{1/} N.J.S.A. 34:13A-5.4(b) prohibits employee organizations, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act."

^{2/} N.J.S.A. 34:13A-5.4(c) provides: "The commission shall have exclusive power as hereinafter provided to prevent anyone from engaging in any unfair practice ... Whenever it is charged that anyone has engaged or is engaging in any such unfair practice, the commission, or any designated agent thereof, shall have authority to issue and cause to be served upon such party a complaint stating the specific unfair practice and including a notice of hearing containing the date and place of hearing before the commission or any designated agent thereof..."

^{3/} N.J.A.C. 19:14-2.1

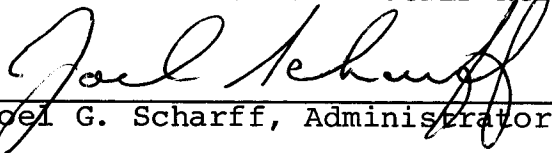
^{4/} N.J.A.C. 19:14-2.3

Charging Party alleges that the Respondent interfered with "my freedom of speech" by discriminatorily denying him access to lists containing union members' names and addresses and by defacing and/or destroying his campaign posters. Charging Party also avers that the PBA bylaws establishing an "attendance quota" for candidates for union office, imposes an unreasonable eligibility requirement.

The averred conduct, if true, concerns exclusively internal union matters. While such matters may be within the jurisdiction of the courts, see e.g., James v. Camden Cty. Council, 188 N.J. Super. 251 (1982), such allegations, on their own, do not state a complaintable charge before this Commission. Jersey City Superior Officers, P.E.R.C. No. 83-32, 8 NJPER 563 (¶ 13260 1983).

Accordingly, for the reasons above, the undersigned declines to issue a complaint.

BY ORDER OF THE ADMINISTRATOR
OF UNFAIR PRACTICE PROCEEDINGS


Joel G. Scharff, Administrator

DATED: July 17, 1984
Trenton, New Jersey