

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

In the Matter of

BERGEN COUNTY COURT JUDGES,

Public Employer,

-and-

DOCKET NO. RO-80-192

COUNCIL #5, NEW JERSEY CIVIL  
SERVICE ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, dismisses a representation petition filed by certain judiciary employees in Bergen County. The County Assignment Judge advised the Commission that the judiciary would not consent as a matter of comity to the jurisdiction of the Commission to resolve the representation question.

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Appearances:

For the Public Employer  
John Degnan, Attorney General  
(Michael L. Diller, Deputy Attorney General)

For the Petitioner  
Morgan & Palace, attorneys  
(Thomas A. Hogan, of counsel)

DECISION

On May 16, 1980, a Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission (the "Commission") by Council #5, New Jersey Civil Service Association ("Council 5") with respect to a proposed unit comprised of confidential secretaries to the judges of Bergen County. In accordance with In re County of Ocean, P.E.R.C. No. 78-49, 4 NJPER 92 (¶ 4042 1978), aff'd. App. Div. Docket No. A-2419-77 (3/14/79), the Commission

offered its services to assist in the resolution of the instant question concerning representation. The assigned Commission agent convened an informal conference at which Council 5 and the Bergen County Judges were unable to resolve the matters presented in the Petition. The Judges have requested that the Commission dismiss the Petition.

Accordingly, the undersigned finds and determines as follows:

1. Council #5, New Jersey Civil Service Association is an employee representative within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"). Council 5 has filed a Petition for Certification of Public Employee Representative with respect to a proposed unit comprised of confidential secretaries to the Court Judges of Bergen County.

2. The Bergen County Court Judges are the public employer of the employees described in the Petition.

3. In Passaic Cty. Probation Officers Assn. v. Cty. of Passaic, et al., 73 N.J. 247 (1977), the Supreme Court determined that court employees cannot be subject to the Act. The Court stated:

Thus we reach the important issue as to whether, while subject to judicial supervision resting upon a constitutional mandate, probation officers can also be subject to N.J.S.A. 34:13A-1 et seq., the New Jersey Employer-Employee Relations Act. Stated more generally, can the control of probation officers and the whole statewide system or probation, seemingly entrusted to the

judiciary by the terms of the constitution, be in any way diluted or modified by legislation? Subject to what is set forth below, we think it clear that it cannot.

\* \* \*

The conclusion is quite inescapable that the constitutional mandate given this Court to 'make rules governing the administration of all courts in the State' transcends the power of the legislature to enact statutes governing those public employees properly considered an integral part of the court system.

However, the Court stated that:

In the absence of any action by this Court -- felt to be constitutionally compelled -- and as a matter of comity and respect for other branches of government, we accept and adopt all statutory arrangements touching or concerning the administration of any court in the State, as well as such legislative enactments as have to do with public employees whose duties are intimately related to the judicial system.

4. In County of Ocean, supra, the Commission, in dismissing an unfair practice charge brought by court employees, stated:

In rendering this decision, we wish to emphasize that we understand, as set forth in Passaic, that the Supreme Court fully recognizes the rights of public employees to organize as set forth in Article I, Paragraph 19 of the New Jersey Constitution. Additionally, the court has indicated that as a matter of comity, it recognizes that public employees have been accorded certain statutory rights and it also recognizes the public policy expressed by the legislature regarding public employees including employees of the judiciary. Therefore, the Commission deems it to be part of its responsibility as set forth in the public policy of the Act to assist the judiciary and its employees in their attempts to resolve

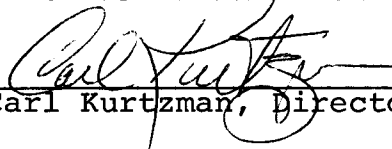
negotiations and other disputes which might arise and we will, in connection, continue to appoint mediators and fact-finders and to assist in the resolution of questions concerning representation.

Therefore, upon receipt of the instant Petition, the undersigned wrote to the Assignment Judge to confirm the availability of the services of the Commission to assist the parties in resolving the instant question concerning representation. Additionally, the Assignment Judge was requested to advise the Commission as to whether he acknowledged the jurisdiction of the Commission in this matter, and whether pursuant to the judiciary's policy of comity, he agreed to the representation procedures set forth in the Act. The Assignment Judge's representative responded that:

It is the Court's position that the confidential secretaries to the Judges should not be represented by a collective negotiations representative. Moreover, it does not acknowledge the Commission's jurisdiction in this matter, nor does it agree to representation procedures set forth in the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.

5. Accordingly, on the basis of the Passaic County decision above, and inasmuch as the Assignment Judge has not agreed to the representation procedures under the Act, and does not acknowledge the Commission's jurisdiction in this matter, the undersigned is constrained to dismiss the instant Petition.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Carl Kurtzman, Director

DATED: November 13, 1980  
Trenton, New Jersey