

D.R. NO. 85-3

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

In the Matter of

STATE OF NEW JERSEY (DEPARTMENT OF LAW  
& PUBLIC SAFETY, DIVISION OF STATE POLICE),

Public Employer,

-and-

STATE TROOPERS NCO ASSOCIATION  
OF NEW JERSEY,

DOCKET NO. AC-84-6

Petitioner,

-and-

NEW JERSEY STATE FRATERNAL ORDER  
OF POLICE,

Intervenor.

SYNOPSIS

The Administrator of Representation Proceedings amends a Certification of Representative to reflect the disaffiliation of the State Troopers NCO Association of New Jersey from the Fraternal Order of Police.

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Appearances:

For the Public Employer  
Office of Employee Relations  
(Frank A. Mason, Director)

For the Petitioner  
Richards & Martinez, Esquires  
(Peter R. Richards of counsel)

For the Intervenor  
Markowitz & Richman, Esquire  
(Stephen C. Richman of counsel)

AMENDMENT OF CERTIFICATION OF REPRESENTATIVE

On April 2, 1984, the State Troopers NCO Association of New Jersey ("Association") filed a Petition for Amendment of Certification with the Public Employment Relations Commission ("Commission") seeking to amend a Certification of Representative issued by the Commission on November 12, 1981.

The initial Certification was issued on November 21, 1972, when the Association was certified to represent enlisted Non-Commissioned

State Police Officers. On November 12, 1981, in response to a Petition for Amendment of Certification, the Commission amended the Certification for the instant unit to reflect the affiliation of the Association with the New Jersey State Fraternal Order of Police ("FOP") as Lodge 21. Noting the Association/Lodge 21 had met the requisites for issuance of an Amendment of Certification (i.e., that upon proper notification and by secret ballot, the membership had voted to so affiliate, that there was a continuity of unit composition, and that there was a complete transfer of officers and members of the unit), the Commission's Director of Representation issued the Amendment of Certification.

In the instant Petition, the Association seeks to disaffiliate from the FOP as Lodge 21, and to amend its Certification of Representative so as to reinstitute its original certification issued in 1972. By letters of June 13 and July 16, 1984, the FOP informed the Commission that Lodge 21 had not sought to disaffiliate from the State Lodge in a manner consistent with the State Lodge's Constitution. <sup>1/</sup> The State Lodge noted that while it believes Lodge 21 to be delinquent in its per-capita payments to the State Lodges for the first half of 1984, "...Lodge #21 is still considered affiliated with the Grand Lodge and the New Jersey State Lodge, Fraternal Order of Police."

The general rule applied to petitions seeking amendment of certification is that an "amendment of certification may not be granted when there is a question concerning representation and that such amendments are not permitted where the certified representative remains in existence and opposes the amendment." Missouri Beef Packers, Inc., 175 NLRB 179, 71 LRRM 1177 (1969). See also, North Electric Co., 165 NLRB 942, 65 LRRM 1379 (1967); Gas Service Co., 231 NLRB 123,

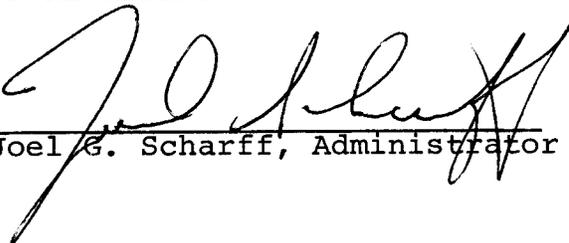
<sup>1/</sup> A copy of the Constitution has not been submitted.

87 LRRM 1226 (1974). Thus the threshold question before the undersigned is whether or not State Troopers NCO Association Inc., FOP Lodge 21 is a majority representative which opposes the petitioned-for Amendment of Certification.

By letter of May 30, 1984, the Association stated "[t]here never was any entity other than the NCO Association which constituted Lodge 21, and because of the NCO Association's secret ballot membership decision to terminate its FOP affiliation, Lodge 21 no longer exists." By affidavit of March 30, 1984, the president of the State Troopers NCO Association warranted that the Association conducted a secret written ballot among its general membership by mail, and that an overwhelming majority of those casting ballots voted in favor of withdrawal from membership in the FOP. It does not appear to the undersigned that State FOP Lodge 21 is a "functioning viable entity" Hamilton Tool Co., 190 NLRB 114, 77 LRRM at p. 1261.

In consideration of the entire record herein, and stressing the particular facts involved in this proceeding, the undersigned grants the requested Amendment of Certification of Public Employee Representative. Accordingly, the certification is hereby amended to reflect that State Troopers NCO Association of New Jersey, Inc. is the majority representative.

BY ORDER OF THE ADMINISTRATOR  
OF REPRESENTATION PROCEEDINGS

  
Joel G. Scharff, Administrator

DATED: September 13, 1984  
Trenton, New Jersey