

D.U.P. NO. 2023-26

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

In the Matter of

CAMDEN COUNTY SHERIFF'S OFFICE,

Respondent,

-and-

Docket No. CO-2020-051

PBA LOCAL 277,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses an unfair practice charge filed by the PBA Local 227 against Sheriff Gilbert L. "Whip" Wilson and the Camden County Sheriff's Department. The charge, as amended, alleges that the past president of PBA Local 227, Sgt. Michael Olson, was targeted with an internal affairs complaint and disciplined due to his union activity. It further alleges that Olson had his overtime cut since August 21, 2018 and was removed from his unit effective November 11, 2018. The amended charge asserts that this conduct violated sections 5.4a(1), (2), (3), (4), (5) and (7) of the New Jersey Employer-Employee Relations Act (Act), N.J.S.A. 34:13A-1, et seq. The charge is deficient as it fails to identify any specific protected union activity. There are also no facts alleged to support a violation of sections 5.4a(1), (2), (4), (5), or (7) of the Act.

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

In the Matter of

CAMDEN COUNTY SHERIFF'S OFFICE,

Respondent,

-and-

Docket No. CO-2020-051

PBA LOCAL 277,

Charging Party.

Appearances:

For the Respondent,
Brown and Connery, attorneys
(Michael J. DiPiero, of counsel)

For the Charging Party,
Alterman and Associates, attorneys
(Stuart Alterman, of counsel)

REFUSAL TO ISSUE COMPLAINT

On August 28 and September 11, 2019, the PBA Local 227 filed an unfair practice charge and an amended charge, respectively, against Sheriff Gilbert L. "Whip" Wilson and the Camden County Sheriff's Department. The charge, as amended, alleges that the past president of PBA Local 227, Sgt. Michael Olson, was targeted with an internal affairs complaint and disciplined due to his union activity on May 3, 2019. It further alleges that Olson had his overtime cut since August 21, 2018 and was removed from his unit effective November 11, 2018. The amended charge asserts that this conduct violated sections 5.4a(1), (2), (3), (4), (5)

and (7)^{1/} of the New Jersey Employer-Employee Relations Act (Act), N.J.S.A. 34:13A-1, et seq.

The Commission has authority to issue a complaint where it appears that the charging party's allegations, if true, may constitute unfair practices on the part of the respondent.

N.J.S.A. 34:13A-5.4c; N.J.A.C. 19:14-2.1. The Commission has delegated that authority to me. Where the complaint issuance standard has not been met, I will decline to issue a complaint. N.J.A.C. 19:14-2.3.

I find the following facts.

The PBA Local 277 is the exclusive majority representative for sheriff's officers, sheriff's investigators, senior I.D. officers, and sheriff's officer sergeants in the Camden Sheriff's Department. The PBA Local 277, the Camden County Sheriff's

^{1/} These provisions prohibit public employers, 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) Dominating or interfering with the formation, existence or administration of any employee organization;" "(3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by the 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;" and "(7) Violating any of the rules and regulations established by the commission."

Department and the Camden County Board of Chosen Freeholders are parties to a collective negotiation agreement effective January 1, 2016 through December 31, 2020.

At the time of the filing of the charge, Sgt. Michael Olson was no longer the president of the PBA Local 277, and instead was president of the PBA Local 277 Superior Officers Association. He became the subject of an internal affairs complaint. After the internal affairs investigation began, Sgt. Olson was transferred from his bidded position around August 21, 2018. He was also removed from his particular unit around November 11, 2018.

Article XIII Section 5(b)5 of the parties CNA provides as follows: "An Officer who is in a bidded position may be moved out of that bidded position if they are being investigated or have been charged for a Class 3 Offense or higher."

The internal affairs investigation culminated in the issuance of a 31-A Preliminary Notice of Disciplinary Action on May 3, 2019. It sought a 90-day suspension for various violations of the New Jersey Administrative Code as well as a number of violations of departmental rules and regulations. The underlying disciplinary matter is still pending.

ANALYSIS

The Charging Party's 5.4a(3) and derivative a(1) allegations regarding Sgt. Olson's discrimination are conclusory and fail to meet the complaint-issuance standard. While the charge asserts

that the internal affairs investigation and resulting discipline was due to Olson's protected union activity, it does not provide any specific factual allegations demonstrating that Sgt. Olson engaged in protected union activity. Instead, the charge simply characterizes the internal affairs investigation and resulting discipline charges as "specious and baseless." We have repeatedly refused to issue complaints where the charge relies on the employee's mere status as a union officer and fails to allege the employee's specific protected activity. See e.g., State of New Jersey (Juvenile Justice Commission), D.U.P. No. 2015-1, 41 NJPER 142 (¶47 2014) (dismissing "intimidation and harassment" claims of a union representative as lacking the requisite specificity); UMDNJ (Tyrone Bodison), D.U.P. No. 2006-9, 32 NJPER 206 (¶90 2006) (dismissing employee's retaliation claim where he failed to allege specific facts showing he engaged in activity related to the collective negotiations process, grievance processing or any other activity on behalf of his majority representative); Woodbridge Tp., D.U.P. No. 94-14, 19 NJPER 523 (¶24243 1993) (dismissing employees discrimination claims where their charge failed to allege any facts that show the complained of conduct had any relationship to the Act's protections). Thus, the 5.4a(3) retaliation claims pertaining to Sgt. Olson are

dismissed.^{2/}

The Charging Party also fails to set forth any facts to support an independent 5.4a(1) violation or a violation of sections 5.4a(2), (4), (5) or (7) of the Act. Accordingly, these claims are dismissed.

Accordingly, I find that the complaint issuance standard has not been met and decline to issue a complaint on the allegations of this charge. N.J.A.C. 19:14-2.1.

ORDER

The unfair practice charge has been dismissed.

/s/ Ryan M. Ottavio
Ryan M. Ottavio
Director of Unfair Practices

DATED: May 30, 2023
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 June 9, 2023.

^{2/} The charge's complaints that Sgt. Olson was removed from his bidded position, from his unit and had his overtime reduced are deficient for the same reason since they are unconnected to any specific allegations of protected activity. Moreover, it appears from the parties' collective negotiations agreement that the Sheriff's Department had the contractual right to remove Sgt. Olson from his bidded position during the pendency of the investigatory and disciplinary processes. Lastly, these allegations are time-barred as they occurred well-outside the six-month statute of limitation period for filing an unfair practice charge. N.J.S.A. 34:13A-5.4c. *Kaczmarek v. N.J. Turnpike Authority*, 77 N.J. 329 (1978).