

D.R. NO. 85-19

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

In the Matter of

MONMOUTH COUNTY SHERIFF'S DEPARTMENT,

Public Employer,

-and-

DOCKET NO. RO-85-66

LOCAL 153, OPEIU, AFL-CIO,

Petitioner.

SYNOPSIS

The Director dismisses a Petition for Certification filed by Local 153, O.P.E.I.U. for a unit of court aides. The Director found that, in the absence of the Judiciary's agreement to the representation procedures set forth in the Act, the Commission does not have jurisdiction to make findings concerning the appropriateness of the petitioned-for unit.

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Appearances:

For the Public Employer

Joan Kane Josephson, Chief, Labor Relations

For the Petitioner

Schneider, Cohen & Solomon, Esqs.

(Bruce D. Leder, of counsel)

DECISION

On October 15, 1984, Local 153, Office & Professional Employees International Union filed a Petition for Certification of Public Employee Representative with the Commission, seeking to represent all court aides in the Monmouth County Sheriff's Department. Neither the County nor the Petitioner disputes the Judiciary's claim that the court aides are judiciary employees. The Commission's policy is to offer its services to assist the Judiciary and representatives of its employees in resolving representational disputes by conducting secret ballot elections in

situations where the parties agree to permit the Commission to do so. 1/

In response to the Petition, a statement of position has been filed by the Administrative Office of the Courts on behalf of the Monmouth County Judiciary, asserting that the court aides of Monmouth County are employees whose duties make them a necessary and integral part of the New Jersey Court system.

The Administrative Office of the Courts advises that it does not agree that the proposed unit (which is limited to a single title) is appropriate for purposes of collective negotiations, particularly in light of the history of a broad-based unit of judiciary employees in Monmouth County. 2/

Further, in Passaic Cty. Probation Officers Assn. v. Cty. of Passaic, et al., 73 N.J. 247 (1977) the Supreme Court determined that court employees were not subject to the provisions of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. 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.,

1/ In re County of Ocean, P.E.R.C. No. 78-48, 4 NJPER 92 (Para 4042 1978), aff'd App. Div. Docket No. A-2419-77 (3/14/79).

2/ In 1980, the Commission issued a certification covering units of judiciary employees to U.F.C.W. Local 56; those units were later subject to a petition for decertification in which the incumbent representative voluntarily withdrew representational interest.

the New Jersey Employer-Employee Relations Act. Stated more generally, can the control of probation officers and the whole statewide system of 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.

By letter dated March 14, 1985, the Administrator advised the parties that absent the judiciary's agreement to the representation procedures set forth in the Act, the Commission does not have jurisdiction to make findings concerning the appropriateness of the petitioned-for unit.^{3/} The Petitioner was requested to withdraw the instant Petition but declined to do so. Accordingly, for the reasons set forth above, the Petition for Certification of Public Employee Representative is hereby dismissed.

BY ORDER OF THE DIRECTOR


Edmund G. Gerber, Director

DATED: April 11, 1985
Trenton, New Jersey

3/ See, In re Bergen Cty Court Judges, D.R. No. 81-15, 6 NJPER 603 (Para 11298 1980).