

D.U.P. NO. 93-19

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

In the Matter of

STATE OF NEW JERSEY,
DEPARTMENT OF CORRECTIONS,

Respondent,

-and-

Docket No. CI-92-105

RONALD JACKSON,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses a charge filed by Ronald Jackson against the State of New Jersey, Department of Corrections. Jackson alleged that the State violated subsections 5.4(a)(1), (3), (5) and (7) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.1 et seq. Although Jackson alleged that the State discriminated in its treatment of him, Jackson did not allege that the State's actions were linked to any protected activity. The Director found that there were no facts supporting the remaining charges.

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Appearances:

For the Respondent,
Peter Beil, Coordinator

For the Charging Party,
Ronald Jackson, pro se

REFUSAL TO ISSUE COMPLAINT

On June 10 and June 29, 1992, Ronald Jackson filed an unfair practice charge and amended charge against the State of New Jersey, Department of Corrections. Jackson alleges that the State violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.4(a)(1), (3), (5) and (7)^{1/} when it disciplined him and

^{1/} These subsections 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; (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 this act;

offered him a voluntary demotion in lieu of termination in December 1991.

Jackson was disciplined because of an attendance problem. He was offered the choice of accepting the proposed discipline, termination or signing a contract providing that the Department will defer imposing discipline for six months. The contract calls for the officer to improve his attendance record during this six-month period and if there is improvement, discipline would be avoided or reduced. Jackson was also asked to take a voluntary demotion in rank from Sergeant to Senior Corrections Officer. He signed the agreement. Jackson claims that others have been treated differently in that they have not been asked or "forced" to take permanent, voluntary demotions.

An employer violates subsection (a)(3) when it discriminates 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. For there to be a violation of this subsection, there must be a nexus between the discriminatory conduct and protected activity. Here, Jackson alleges discriminatory treatment in relation to the Department's

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(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.

disciplinary program. However, he does not allege that this differential treatment was in any way tied to his having engaged in protected activity, such as filing grievances or actively participating in collective organization and negotiations. Accordingly, I dismiss Jackson's charge alleging a violation of subsection 5.4(a)(3).^{2/}

Therefore, I do not believe that the Commission's complaint issuance standard has been met. Accordingly, I refuse to issue a complaint on any of the allegations of this charge and dismiss the case.^{3/}

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Edmund G. Gerber, Director

DATED: December 23, 1992
Trenton, New Jersey

^{2/} Jackson also alleges violations of subsections(a)(1) and (5) and (7) but his charge does not contain any facts supporting these allegations.

^{3/} N.J.A.C. 19:14-2.3.