

D.U.P. NO. 97-5

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

In the Matter of

MORRIS COUNCIL No. 6, NEW JERSEY  
CIVIL SERVICE ASSOCIATION,

Respondent,

-and-

Docket No. CI-96-40

JOHN THOMAS SPRUIELL,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses a charge filed by an office manager alleging that a shop steward's questionnaire to unit members was an illegal attempt to coerce unit employees to attack his character. The Director finds that the charge does not allege facts which implicate any employee rights protected by the New Jersey Employer-Employee Relations Act and that the questionnaire, which could be submitted anonymously, was not coercive.

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Appearances:

For the Respondent,  
Betty Lisovsky, President

For the Charging Party,  
John Thomas Spruiell, pro se

REFUSAL TO ISSUE COMPLAINT

On December 18, 1995, John Thomas Spruiell, an office manager employed by the Morris County Prosecutor's Office, filed an unfair practice charge against Morris Council No. 6, New Jersey Civil Service Association, with the Public Employment Relations Commission. In his charge, Spruiell alleges that a shop steward circulated a memo against him in an attempt to coerce members of Spruiell's staff to join in the attack on Spruiell's character and performance. Spruiell is not included in the negotiations unit represented by Council 6, but alleges that Council 6's shop steward

violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.4 (b) (1)<sup>1/</sup>

Spruiell also notes that the union ignored the formal grievance procedure.

On August 21, 1995, an inter-office memo from Carrie Ann Kinnecom, Shop Steward, was circulated in the office where Spruiell is an office manager. The memo stated that there had been complaints of harassment, intimidation, lack of supplies and possible racial discrimination by the office administrator. The memo requested that an attached questionnaire be completed (anonymously) and returned to the steward, and encouraged employees to join the union.

The allegations in the charge do not meet the Commission's complaint issuance standards. N.J.A.C. 19:14-2.1. Spruiell appears to be a managerial executive within the meaning of the Act and is, therefore, not eligible to be part of an organization for collective negotiations.<sup>2/</sup> The crux of Spruiell's complaint appears to be that the shop steward is attacking his character and performance. Even if this were proven true, it would not constitute a violation of the Act.

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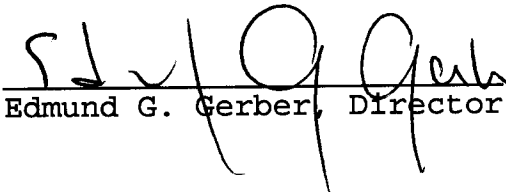
<sup>1/</sup> This subsection prohibits employee organizations, their representatives or agents from: "Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act."

<sup>2/</sup> N.J.S.A. 34:13A-3(f) defines managerial executives of a public employer as persons who "formulate management policies and practices, and persons who are charged with the responsibility of directing the effectuation of such management policies and practices...." See also subsection 5.3 of the Act.

However, Spruiell's charge also appears to be raising the rights of negotiations unit members in his office not to be coerced into participating in the collective activity suggested in the shop steward's memo. Although the memo strongly encourages employees to join the union, because it can be answered anonymously, we do not agree that it is a coercive document.

The Commission's complaint issuance standard has not been met and accordingly, no complaint shall issue on this charge. The charge is dismissed.

BY ORDER OF THE DIRECTOR  
OF UNFAIR PRACTICES

  
Edmund G. Gerber, Director

DATED: July 18, 1996  
Trenton, New Jersey