

D.R. NO. 85-21

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIVISION OF REPRESENTATION

In the Matter of

MERCER COUNTY JUDICIARY,

Public Employer,

-and-

TEAMSTERS LOCAL 102,

Petitioner,

DOCKET NO. RO-85-104

-and-

A.F.S.C.M.E., COUNCIL 73,

Intervenor.

SYNOPSIS

The Director of Representation dismissed a Petition for Certification which was filed with the Public Employment Relations Commission by Teamsters Local 102. The Judiciary did not acquiesce to the jurisdiction of the Commission to determine an appropriate unit as requested by the petition. Pursuant to Passaic County Probation Officers Assn. v. County of Passaic, et al, 73 N.J. 247 (1977), wherein the New Jersey Supreme Court held that employees of the Judiciary are not subject to the provisions of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13-A et seq, the Commission will not process a petition for representation absent the acquiescence of the Judiciary.

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TEAMSTERS LOCAL 102,

Petitioner,

DOCKET NO. RO-85-104

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A.F.S.C.M.E., COUNCIL 73,

Intervenor.

Appearances:

For the Public Employer
Joan Kane Josephson
Chief, Labor Relations

For the Petitioner
Ben Merker, Sec-Treas.

For the Intervenor
Jack Merkel, Director

DECISION

On January 3, 1985, Teamsters Local 102 filed a Petition for Certification of Public Employee Representative with the Public Employment Relations Commission ("Commission") seeking to represent all probation investigators employed by the Mercer County Judiciary.

All parties agree that probation investigators are employees of the Judiciary and are necessary and integral to the operation of the court system.

The probation investigators are currently included in a broad-based unit of all county judiciary employees, excluding probation officers. The broad-based judiciary unit is currently represented

by Local 2287, American Federation of State, County and Municipal Employees; the title probation investigator is included in the most recent agreement between the Judiciary and A.F.S.C.M.E., which expired December 31, 1984.

The Judiciary takes the position that the petitioned-for unit of probation investigators is inappropriate in that it seeks to sever employees in a single title from the broad-based unit. A.F.S.C.M.E. takes the position that it objects to the severance of employees from the existing unit. Teamsters Local 102 alleges that the probation investigators should be severed from the existing unit because the incumbent representative has not provided responsible representation to the probation investigators.

By letter dated January 8, 1985, I advised the parties that in accordance with In re County of Ocean, P.E.R.C. No. 78-49, 4 NJPER 92 (§ 4042 1978), the Commission was confirming the availability of its services to assist the parties in resolving the instant question concerning representation. I requested that the Judiciary advise the Commission whether, pursuant to its policy of comity, the Judiciary agreed to the representation procedures set forth in the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"). On January 21, 1985, a Commission staff agent conducted an informal conference between the parties.

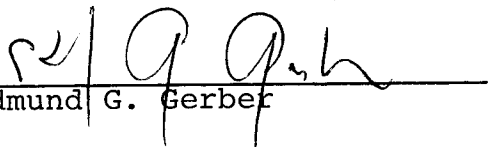
At the conference, representatives of the County Judiciary stated the Judiciary's position concerning this matter: that the Judiciary resists attempts to carve out smaller units of employees from the broad-based unit and that it wishes to avoid unit fragmen-

tation. Further, the Judiciary indicated that it does not acquiesce to the jurisdiction of the Commission to determine the appropriate unit for the purpose of collective negotiations.

In Passaic County Probation Officers Assn. v. County of Passaic, et al, 73 N.J. 247 (1977) the New Jersey Supreme Court held that employees of the Judiciary are not subject to the provisions of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13-A et seq.

By letter dated March 14, 1985, the Administrator of Representation advised the parties that, absent the acquiescence of the Judiciary to the representation procedures in the New Jersey Employer-Employee Relations Act, this Commission does not have jurisdiction to make findings concerning the appropriateness of the petitioned-for unit, 1/ and therefore, the Administrator requested the Petitioner to withdraw the instant petition. Inasmuch as the Petitioner has not requested the withdrawal of the petition, for the reasons set forth above, the Petition for Certification is hereby dismissed.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerber

DATED: April 8, 1985
Trenton, New Jersey

1/ See In re Bergen County Court Judges, D.R. No. 81-15, 6 NJPER 603 (¶ 11298 1980).