

D.R. NO. 89-34

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

In the Matter of

ATLANTIC-CAPE MAY JUDICIARY &
CAPE MAY COUNTY,

Public Employer,

-and-

CAPE MAY COUNTY PROBATION
OFFICERS ASSOCIATION,

Docket No. RO-89-71

Petitioner,

-and-

DISTRICT 65, UAW,

Intervenor.

SYNOPSIS

The Director of Representation dismisses an untimely petition filed by the Cape May County Probation Officers' Association ("CMCPOA") seeking to represent Senior Probation Officers and Probation Officers employed by the Atlantic-Cape May Vicinage. The current agreement between the Atlantic-Cape May Vicinage and UAW District 65 expires December 31, 1989, therefore, pursuant to N.J.A.C. 19:11-2.8, the petition is untimely.

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Appearances:

For the Public Employer Judiciary
Administrative Office of the Courts
(Joan Kane Josephson, Chief, Labor Relations)

For the Public Employer County
Gruccio, Pepper, Giovinazzi & DeSanto, Esqs.
(Lawrence Pepper, Jr., of counsel)

For the Petitioner
Jean Marcy, Shop Steward

For the Intervenor
Betty Olleck, Representative

DECISION

On December 13, 1988 the Cape May County Probation Officers Association ("CMCPOA") filed a Petition for Certification of Public Employee Representative with the Public Employment Relations Commission ("Commission") seeking certification as the majority

representative of Senior Probation Officers and Probation Officers employed by the Atlantic-Cape May Vicinage of the State Judiciary ("Judiciary") in the Cape May County Probation Department ("County").^{1/} This unit is currently represented by District 65, U.A.W. ("UAW").

We conducted an administrative investigation to determine the facts. N.J.A.C. 19:11-2.2.

The County, the UAW and the Judiciary as represented by the Administrative Office of the Courts, State of New Jersey, oppose the petition on the ground that it is untimely pursuant to N.J.A.C. 19:11-2.8. The UAW and the Judiciary are parties to a collective negotiations agreement covering the probation officers' unit for the period from January 1, 1987 to December 31, 1989.

N.J.A.C. 19:11-2.8 states in pertinent part:

(c) During the period of an existing written agreement containing substantive terms and conditions of employment and having a term of three years or less, a Petition for Certification of Public Employee Representative...normally will not be considered timely filed unless:

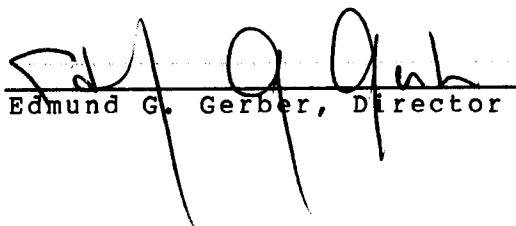
^{1/} Initially, a decertification petition had been filed by petitioner (Docket No. RD-89-8). However, because the showing of interest in the decertification petition was deficient, we contacted the petitioner to request that the showing of interest be corrected. The decertification petitioner then informed us that its intent here was to replace the UAW with the CMCP OA. Thus, inasmuch as the decertification petitioner did not seek to have probation officers left without representation, but rather wanted the Association as their majority representative, we closed the decertification file on December 13, 1989 and processed the certification petition filed by the CMCP OA.

2. In a case involving employees of a county or a municipality, any agency thereof, or any county or municipal authority, commission or board, the petition is filed not less than 90 days and not more than 120 days before the expiration or renewal date of such agreement;

Here, the UAW - Judiciary contract is for a term of three years; it expires on December 31, 1989. This petition was filed with the Commission on December 13, 1988. The petition was filed outside the open period and is untimely.^{2/}

Accordingly, we find the petition is untimely and hereby dismiss the petition.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Gerber, Director

DATED: May 25, 1989
Trenton, New Jersey

^{2/} We note that the original decertification petition was filed on November 14, 1988. However, that too was untimely. To be timely filed, a petition for these employees would have to be filed during the 1989 open period (i.e., between 90-120 days prior to December 31, 1989, the expiration date of the contract).