

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

In the Matter of

CAMDEN COUNTY PROSECUTOR'S
OFFICE,

Public Employer,

-and-

CAMDEN COUNTY PROSECUTOR'S
OFFICE SECRETARIAL ASSOCIATION,

DOCKET NO. RO-81-137

Petitioner,

-and-

COUNCIL 10, NJCSA,

Intervenor,

COUNTY OF CAMDEN,

Party-at-Interest.

SYNOPSIS

The Director of Representation, finding that the prosecutor is the public employer of employees assigned to his office, directs a secret ballot election among clerical employees.

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COUNTY OF CAMDEN,

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Appearances:

For the Public Employer
Joseph F. Audino, First Assistant Prosecutor

For the Petitioner
Patricia Herr

For the Intervenor
Joseph A. Carmen, Esq.

For the Party-at-Interest
Dorf & Glickman
(Steven S. Glickman, Esq.)

DECISION AND DIRECTION OF ELECTION

On November 26, 1980, a Petition for Certification of

Public Employee Representative accompanied by an adequate showing of interest was filed with the Public Employment Relations Commission (the "Commission") by the Camden County Prosecutor's Office Secretarial Association (the "Association") with respect to a unit of clerical employees of the Camden County Prosecutor's Office (the "Prosecutor"). Council 10, New Jersey Civil Service Association ("Council 10") has intervened in the Petition on the basis of a showing of interest among the employees, pursuant to N.J.A.C. 19:11-2.7.

Prior to the filing of the Association's petition, Council No. 10, on November 21, filed an unfair practice charge (CO-81-158) against the County of Camden (the "County") alleging that the Prosecutor, as an agent of the County, "has refused to honor the terms of a holdover contract between the employing authority and the certified bargaining agent of the broad based county-wide unit."

In response to the Commission's request for a statement of position regarding the representation petition, the Prosecutor advised that, in reliance upon several Commission holdings, Bergen Cty. Freeholder Bd. v. Bergen Cty. Pros'r, D. R. No. 78-34, 4 NJPER 104 (¶4047 1978), P.E.R.C. No. 78-77, 4 NJPER 220 (¶4110 1978), affmd 172 N.J. Super. 363 (App. Div. 1980) and In re Mercer Freeholder Board and Mercer Cty. Pros'r, P.E.R.C. No. 78-77, 4 NJPER 220 (¶4110 1978), affmd 172 N.J. Super. 411 (App. Div. 1980), the Prosecutor was the employer of the petitioned-for employees. The Prosecutor agreed to the conduct of a secret ballot election in

which the employees could select a negotiations representative, if any, to represent them for collective negotiations purposes.

Council 10 asserts that it is the current majority representative of the employees in the Prosecutor's office since these employees have been included in its countywide negotiations unit. Further, Council 10 questions whether the Prosecutor is the employer of these employees.

On December 17, 1980, an informal conference was held by a Commission agent to clarify and discuss the issues raised in the representation petition and in the unfair practice charge. At the conference a representative of the County stated that if the Commission determined these employees to be employed by the Prosecutor, the County would not further participate as a party to the matter.

Council 10 has requested that the processing of the representation petition be blocked by the unfair practice charge. The undersigned has carefully reviewed the allegations contained in the charge.

To date, the investigation reveals the following:

1. The disposition of this matter is properly based upon the administrative investigation herein, it appearing that no substantial and material factual issues exist which may more appropriately be resolved after an evidentiary hearing. Pursuant to N.J.A.C. 19:11-2.6(c), there is no necessity for a hearing where, as here, no substantial and material factual issues have been placed in dispute by the parties.

2. The Camden County Prosecutor is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), is the employer of the employees who are the subject of the Petition and is subject to the provisions of the Act. The Commission has determined that a county prosecutor is the employer, within the meaning of the Act, of employees of a prosecutor's office. In re Bergen County Prosecutor, supra; In re Mercer County Prosecutor, supra.

3. The Secretarial Association of the Prosecutor's Office of Camden County (the "Association") and the New Jersey Civil Service Association, Council No. 10 ("Council No. 10") are employee representatives within the meaning of the Act and subject to its provisions.

4. The Association has filed a timely Petition for Certification of Public Employee Representative seeking to represent a unit of clerical employees of the Prosecutor. The petition filed is the proper petition to be filed with the Commission.

5. The Petitioner and the Employer agree to the conduct of a secret ballot election among the petitioned-for employees.

6. Council 10 has requested that an unfair practice charge which it filed against the County block the processing of the representation petition. However, the Commission has found in similar situations that unfair practice complaints under N.J.S.A. 34:13A-5.4(a)(5) must be dismissed against a county where the employer is found to be other than a county, notwithstanding the previous inclusion of employees in a countywide negotiations unit.

See In re County of Ocean, P.E.R.C. No. 78-49, 4 NJPER 92 (¶4042 1978), affmd. App. Div. Docket No. A-2419-77 (March 14, 1979). Council 10's charge, therefore, may not block an election.

Accordingly, on the basis of the investigation, the undersigned determines that a valid question concerning representation exists in a prima facie appropriate unit. Since there is no agreement for a consent election, the undersigned shall direct that an election be conducted among employees in the proposed unit of all clerical employees in the prosecutor's office excluding managerial executives, confidential employees, police employees, craft and professional employees, and supervisors within the meaning of the Act.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that an election be conducted among the employees described above. The election shall be conducted no later than thirty (30) days from the date set forth below.

Those eligible to vote are employees set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during the period because they were out ill, or on vacation, or temporarily laid off, including those in military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of the election.


Pursuant to N.J.A.C. 19:11-9.6, the Public Employer is

directed to file with the undersigned and with the Association and with Council #10, an election eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility lists must be received by the undersigned no later than ten (10) days prior to the date of the election. A copy of the eligibility lists shall be simultaneously filed with the Petitioner with statements of service to the undersigned. The undersigned shall not grant an extension of time within which to file the eligibility lists except in extraordinary circumstances.

Those eligible to vote shall vote on whether or not they wish to be represented for the purpose of collective negotiations by the Camden County Prosecutor's Office Secretarial Association, Council No. 10, NJCSA, or neither.

The exclusive representative, if any, shall be determined by the majority of valid ballots cast by the employees voting in the respective elections. The elections directed shall be conducted in accordance with the provisions of the Commission's rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: March 18, 1981
Trenton, New Jersey