

P.E.R.C. NO. 2006-64

STATE OF NEW JERSEY  
BEFORE THE MERIT SYSTEM BOARD  
AND  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matters of

MONMOUTH COUNTY,

Respondent,

-and-

PATRICK PANELLA,

Petitioner.

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MONMOUTH COUNTY,

Respondent,

-and-

PATRICK PANELLA,

Charging Party.

JOINT ORDER  
ON CONSOLIDATION AND  
PREDOMINANT INTEREST

DOP Docket No. 2005-4007-1  
OAL Docket No. CSVYN 4444-2005S

PERC Docket No. CI-2005-31

SYNOPSIS

The Chairman of the Public Employment Relations Commission and the Merit System Board entered a joint order consolidating an unfair practice charge filed with the Commission and a disciplinary appeal filed with the Merit System Board. The consolidated case will be heard by an Administrative Law Judge. The Judge's Initial Decision and the record will be forwarded to the Commission first to determine whether the employee engaged in activity protected under the New Jersey Employer-Employee Relations Act and whether that activity, if protected, was a substantial or motivating factor in the discipline. The Commission's decision and the complete record will then be sent to the Board to determine whether the disciplinary action was for legitimate business reasons and was otherwise warranted under Merit System laws. If appropriate, the matter will be returned to the Commission for its consideration of whether specialized relief is warranted under its Act.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.



transmitted to the Office of Administrative Law and a Complaint on the unfair practice charge was issued.

On November 8, 2005, the parties filed a joint request for consolidation and predominant interest determination.

On January 20, 2006, Administrative Law Judge Ana C. Viscomi issued an order consolidating the cases before the ALJ and determining that the Board should have the predominant interest.

Having independently evaluated the record and considered the ALJ's Order, the Board, at its meeting on February 22, 2006 and the Chairman of the Public Employment Relations Commission, acting pursuant to authority delegated to him by the full Commission, on February 17, 2006 determined that the two cases should be consolidated and decided consistent with the two agencies' standard approach in similar cases. See, e.g., State of New Jersey (Dept. of Treasury), P.E.R.C. No. 2002-25, 28 NJPER 45 (¶33012 2001).

#### JOINT ORDER

The Merit System Board appeal and the Public Employment Relations Commission Complaint are consolidated for hearing before the Administrative Law Judge. The ALJ will first offer recommended findings of fact and conclusions of law to both the Public Employment Relations Commission and the Merit System Board, disposing of all issues in controversy through a single initial decision under N.J.A.C. 1:1-18.3 and consistent with N.J.A.C. 1:1-17.8(a); and

Upon transmittal of the initial decision to both agencies, the underlying record will be forwarded to the Commission to determine whether Panella engaged in activity protected under the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., and whether that activity, if protected, was a substantial or motivating factor in the suspension; and

The Commission's decision and the complete record will then be sent to the Merit System Board to determine whether the disciplinary action was for legitimate business reasons and was otherwise warranted under Merit System laws; and

If appropriate, the matter will be returned to the Commission for its consideration of whether specialized relief is warranted under its Act.

DECISION RENDERED BY THE  
MERIT SYSTEM BOARD ON  
FEBRUARY 22, 2006

DECISION RENDERED BY THE  
CHAIRMAN OF THE PUBLIC  
EMPLOYMENT RELATIONS  
COMMISSION ON FEBRUARY  
17, 2006

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Rolando Torres, Jr.  
Commissioner  
Department of Personnel

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Lawrence Henderson  
Chairman  
Public Employment Relations  
Commission