

STATE OF NEW JERSEY  
BEFORE THE CIVIL SERVICE COMMISSION  
AND  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matters of

JOSE SANTANA,

Appellant,

-and-

OAL Docket No. CSV 477-09  
Agency Docket No. 2009-2165

STOCKTON STATE COLLEGE,

Respondent.

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IFPTE Local 195

Charging Party

-and-

Docket No. CO-2008-321

STATE OF NEW JERSEY  
STOCKTON STATE COLLEGE,

Respondent.

SYNOPSIS

The Civil Service Commission and the Chairman of the New Jersey Public Employment Relations Commission issue a Joint Order consolidating an appeal before Civil Service and an unfair practice charge before PERC for hearing before an Administrative Law Judge. The appeal and the charge both allege that a union president was suspended in retaliation for protected activity. After the ALJ issues a decision to both agencies, PERC will determine whether the employee engaged in activity protected under the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., and whether the activity, if protected was a substantial or motivating factor in the suspension; the CSC will then determine whether the disciplinary action was for a legitimate business reason and was otherwise warranted under the Civil Service laws; and if appropriate the matter will be returned to PERC for 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.

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Appearances:

For the Respondent, Anne M. Milgram, Attorney General  
(Mamta Patel, Senior Deputy Attorney General and Geri  
Benedetto, Deputy Attorney General, of counsel)

For the Appellant/Charging Party, Oxfeld Cohen, P.C.  
(Arnold S. Cohen, of counsel)

DECISION

Jose Santana filed an appeal with the Civil Service  
Commission of a determination by the State of New Jersey Stockton  
State College to suspend him for ten days. On December 24, 2008,  
IFPTE Local 195 filed an unfair practice charge alleging that

Santana's suspension was intended to discriminate against him due to his position as union president. The Civil Service appeal was transmitted to the Office of Administrative Law and a Complaint on the unfair practice charge was issued.

Stockton State College filed a notice of motion for consolidation and predominant interest determination requesting the judge to order that the Civil Service Commission has the predominant interest. The appellant/charging party supports consolidation, but argues for a determination that the Public Employment Relations Commission has the predominant interest in the conduct and outcome of the consolidated matter.

On October 5, 2009, Administrative Law Judge Bruce M. Gorman issued a decision and order consolidating the cases and determining that PERC should have the predominant interest.

Having independently evaluated the record and considered the ALJ's Order, the Civil Service Commission, at its meeting on November 5, 2009 and the Chairman of the Public Employment Relations Commission, acting pursuant to authority delegated to him by the full Commission, on October 26, 2009 made the following determination in this matter.

JOINT ORDER

The Civil Service appeal and the Public Employment Relations Commission Complaint are consolidated for hearing before the Administrative Law Judge. The ALJ will first offer recommended

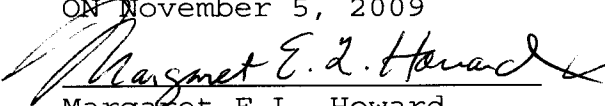
findings of fact and conclusions of law to both the Public Employment Relations Commission and the Civil Service Commission, disposing of all issues in controversy through a single initial decision under N.J.A.C. 1:1-18.3 and consistent with N.J.A.C. 1:1-17.8(a); and

Upon transmittal of the initial decision to both agencies, the underlying record will be forwarded to the Public Employment Relations Commission to determine whether Santana 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

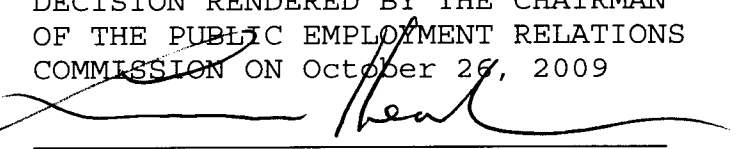
The Commission's decision and the complete record will then be sent to the Civil Service Commission to determine whether the disciplinary action was for legitimate business reasons and was otherwise warranted under Civil Service laws; and

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

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION  
ON November 5, 2009

  
Margaret E.L. Howard,  
Presiding Member  
Civil Service Commission

DECISION RENDERED BY THE CHAIRMAN  
OF THE PUBLIC EMPLOYMENT RELATIONS  
COMMISSION ON October 26, 2009

  
Lawrence Henderson, Chairman  
Public Employment Relations  
Commission