

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

In the Matter of

ATLANTIC COUNTY DEPARTMENT
OF PUBLIC SAFETY,

Respondent,

-and-

Agency Docket No. CSV 8377-09
OAL Docket No. 2009-3217

CHRISTOPHER M. CARTY,

Appellant.

COUNTY OF ATLANTIC,

Respondent,

-and-

Docket No. CO-2009-323

FRATERNAL ORDER OF POLICE
LODGE No. 34,

Charging Party.

SYNOPSIS

The Civil Service Commission and the Chairman of the New Jersey Public Employment Relations Commission issue a Joint Order consolidating appeals before Civil Service and an unfair practice charge before PERC for hearing before a PERC Hearing Examiner designated as a Special Administrative Law Judge. The charge alleges that two County correction officers were denied union representation after they were arrested and advised to resign by County representatives while in police custody. The appeal seeks to rescind the officers' resignations on the basis that they were the result of duress or coercion. After the ALJ issues a decision to both agencies, PERC will determine whether the County committed an unfair practice; the CSC will then determine whether the resignation was the result of duress or coercion or was otherwise valid under Civil Service law.

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.

P.E.R.C. NO. 2010-32

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

In the Matter of

ATLANTIC COUNTY DEPARTMENT
OF PUBLIC SAFETY,

Respondent,

-and-

Agency Docket No. CSV 8377-09
OAL Docket No. 2009-3217

CHRISTOPHER M. CARTY,

Appellant.

COUNTY OF ATLANTIC,

Respondent,

-and-

Docket No. CO-2009-323

FRATERNAL ORDER OF POLICE
LODGE No. 34,

Charging Party.

Appearances:

For the Respondent, Eric M. Bernstein & Associates,
L.L.C. (Deborah J. Bracaglia, of counsel)

For the Appellant/Charging Party, Selikoff & Cohen,
P.A. (Keith Waldman, of counsel)

DECISION

On March 17, 2009, Fraternal Order of Police Lodge No. 34
filed an unfair practice charge with the Public Employment
Relations Commission against the County of Atlantic. The charge
alleges that the employer violated the New Jersey Employer-

Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when County Correction Officers Christopher M. Carty and Robert Roeder requested and were denied union representation after they were arrested by the Winslow Township Police Department and charged with various offenses. Carty and Roeder submitted letters of resignation to Atlantic County officials while in the custody of the Winslow Township police. The FOP further alleges that the County refused to provide information upon its request in relation to the resignations of Carty and Roeder.

Carty and Roeder sought to rescind their resignations and the County refused. They filed appeals to the Civil Service Commission pursuant to N.J.A.C. 4A:2-6.1(d), asserting that their resignations were the result of duress or coercion. On July 8, 2009, the Civil Service Commission dismissed Roeder's appeal as moot.^{1/} It transmitted Carty's case to the Office of Administrative Law for a hearing as a contested case.

The parties have filed cross-motions for consolidation and for a determination as to predominant interest. The parties agree that the Civil Service Commission and the Public Employment Relations Commission matters should be consolidated. The FOP and Carty argue that PERC has the predominant interest since the matter concerns violations of Carty and Roeder's rights under its Act. The County counters that the CSC has the predominant

^{1/} Roeder died on March 1, 2009.

interest because the case focuses on issues of coercion and duress.

On September 24, 2009, Administrative Law Judge Bruce M. Gorman issued an Order consolidating these matters and directing that the Public Employment Relations Commission has the predominant interest.

Having independently evaluated the record and considered the Administrative Law Judge'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 determined that the two cases should be consolidated and decided consistent with the following Joint Order.

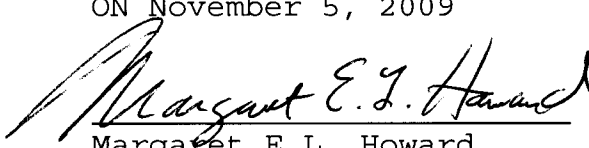
JOINT ORDER

The Civil Service appeal and the unfair practice Complaint are consolidated for hearing before a Hearing Examiner of the Public Employment Relations Commission designated as a Special 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 consider and decide all questions within its unfair practice jurisdiction; and,

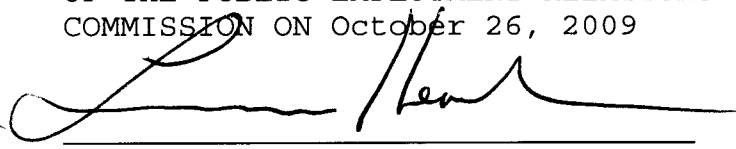
The Public Employment Relations Commission's decision and the complete record will then be sent to the Civil Service Commission to determine whether Carty's resignation was the result of duress or coercion or was otherwise valid under Civil Service laws.

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