

P.E.R.C. NO. 2010-75

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ESSEX,

Public Employer,

-and-

FRATERNAL ORDER OF POLICE,  
LODGE NO. 71,

Docket No. RO-2010-058

Petitioner,

-and-

PBA LOCAL NO. 382,

Intervenor.

SYNOPSIS

The Public Employment Relations Commission denies a request for review of D.R. No. 2010-14 filed by the Fraternal Order of Police, Lodge No. 71. In that decision, the Director of Representation directed a mail-ballot election among corrections officers employed by the County of Essex. The FOP sought to have the election conducted by in-person balloting. It argued that the Director misapplied the factors used to determine election methodology. The PBA opposes review. The Commission holds that the FOP had not proven that it was prejudiced by the Director's determination.

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 Public Employer, James R. Paganelli, Essex  
County Counsel (Dolores Capetola, Assistant County  
Counsel)

For the Petitioner, Fusco & Macaluso, L.L.C. (Anthony  
J. Fusco, Jr., of counsel)

For the Intervenor, Loccke, Correia, Schlager, Limsky &  
Bukosky (Marcia J. Tapia, of counsel)

DECISION

On March 24, 2010, Fraternal Order of Police, Lodge No. 71  
filed a request for review of D.R. No. 2010-14, \_\_\_ NJPER \_\_\_ (¶ \_\_\_  
2010). In that decision, the Director of Representation directed  
a mail-ballot election among corrections officers employed by the  
County of Essex. The FOP seeks to have the election conducted by  
in-person balloting. The current majority representative, PBA

Local No. 382, supports the Director's determination to have a mail-ballot election. We deny review.

N.J.A.C. 19:11-8.2 sets forth the grounds for granting a request for review in a representation case. A request for review will be granted only for one or more of these compelling reasons:

1. A substantial question of law is raised concerning the interpretation or administration of the Act or these rules;
2. The Director of Representation's decision on a substantial factual issue is clearly erroneous on the record and such error prejudicially affects the rights of the party seeking review;
3. The conduct of the hearing or any ruling made in connection with the proceeding may have resulted in prejudicial error; and/or
4. An important Commission rule or policy should be reconsidered.

The FOP asserts that review should be granted under reasons 2 and 3. It argues that the Director misapplied the factors used to determine election methodology. It has not, however, persuaded us that it was prejudiced by the Director's determination. We anticipate a fair election, whether by mail or in-person. There is no ground for review and the FOP's request is denied.

ORDER

The request for review is denied.

BY ORDER OF THE COMMISSION

Commissioners Eaton, Fuller, Krengel, Voos and Watkins voted in favor of this decision. None opposed. Commissioner Colligan recused himself.

ISSUED: April 29, 2010

Trenton, New Jersey