

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

In the Matter of

PENNY GRACIA et al.,
CAMDEN CITY POLICE
DEPARTMENT,

OAL Dkt No. CSV 7220-13
CSC Docket Nos.
2013-2016, 2013-2017, 2013-2018
2013-2019, 2013-2020, 2013-2021
2013-2022, 2013-2023, 2013-2024
2013-2025, 2013-2026, 2013-2027
2013-2028, 2013-2029, 2013-2030
2013-2031, 2013-2032, 2013-2033
2013-2034, 2013-2035, 2013-2036
2013-2037, 2013-2038, 2013-2039
2013-2040, 2013-2041, 2013-2042
2013-2043, 2013-2044, 2013-2045
2013-2046, 2013-2047, 2013-2048
2013-2049, 2013-2050, 2013-2051
2013-2052, 2013-2053, 2013-2054
2013-2055, 2013-2056

FOP LODGE 1,

Charging Party,

-and-

CITY OF CAMDEN AND
COUNTY OF CAMDEN,

Respondent.

PERC Docket Nos. CO-2013-094
CO-2014-106
(CONSOLIDATED)

SYNOPSIS

The Chair of the Public Employment Relations Commission and the Civil Service Commission issue a Joint Order consolidating for hearing before an Administrative Law Judge Civil Service layoff appeals filed by former City of Camden Police Officers and two unfair practices cases filed by FOP Lodge 1. The Chair and Commission further find that PERC shall have the predominant interest.

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

In the Matter of

PENNY GRACIA et al.,
CAMDEN CITY POLICE
DEPARTMENT,

OAL Dkt No. CSV 7220-13
CSC Docket Nos.
2013-2016, 2013-2017, 2013-2018
2013-2019, 2013-2020, 2013-2021
2013-2022, 2013-2023, 2013-2024
2013-2025, 2013-2026, 2013-2027
2013-2028, 2013-2029, 2013-2030
2013-2031, 2013-2032, 2013-2033
2013-2034, 2013-2035, 2013-2036
2013-2037, 2013-2038, 2013-2039
2013-2040, 2013-2041, 2013-2042
2013-2043, 2013-2044, 2013-2045
2013-2046, 2013-2047, 2013-2048
2013-2049, 2013-2050, 2013-2051
2013-2052, 2013-2053, 2013-2054
2013-2055, 2013-2056

FOP LODGE 1,

Charging Party,

-and-

CITY OF CAMDEN AND
COUNTY OF CAMDEN,

Respondent.

Appearances:

For the Appellants/Charging Party, Caplan, Valenti & Murray, attorneys (Anthony Valenti, of counsel)

For the Respondent City of Camden Police Department, Jason Ascuncion, Assistant City Attorney

For the Respondent City of Camden, Brown and Connery, attorneys (Michael J. DiPiero, of counsel)

For the Respondent County of Camden, Office of the Camden County Counsel (Sherri L. Schweitzer, County Counsel; Howard L. Goldberg, First Assistant County Counsel)

PERC Docket Nos. CO-2013-094
CO-2014-106
(CONSOLIDATED)

DECISION

William Armstrong, Robert Babnew, Raul Beltran, Anthony Benson, Angel Camacho, Cheryl Campbell, Robert Chew, Mitzi Collins, Lawrence Cox, Melba Gracia, Penny Gracia, Steven Harlow, Jr., Michael Hendricks, Mark Hoopes, Erayna Hoskins, Keith James, Darryl Lofland, Madrid Matthews, Michael Mc Causland, Tyrone Mc Eady, Thomas Plotts, John Polcyn, Brian, Razzi, Isidoro Reyes, David Richman, Josph Rivera, Ella Roberts, Carmen Ruiz, Luis Ruiz, Luis Sanchez, Mark Saunders, Vincent Saunders, Bernardo Segarra, Orlando Segarra, Mashea Snyder, Jose Torres, Daniel Vause, Jr., Terrell Watkins, Craig Williams, Sr., Kathy Wilson, and Charles Zeigler, Jr. filed appeals of their layoff from the City of Camden Police Department with the Civil Service Commission (CSC). FOP Lodge 1 filed two unfair practice charges against the City of Camden and the City and County of Camden, respectively, with the Public Employment Relations Commission (PERC).

The first PERC charge alleges the City violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.4a(1), (3) and (5)^{1/} when it failed and/or refused to respond to the

^{1/} These provisions prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (2) Dominating or interfering with the formation, existence or administration of any employee organization. (3) Discriminating in regard
(continued...)

FOP's request to negotiate over matters associated with the City's plan to abolish its police force and its request for information related to the plan. The second charge, as amended, alleges the City and County violated section 5.4a(1), (2), (3), and (5) of the Act by imposing restrictions on applications from former City police officers to limit the number of FOP members hired by the new County force in an effort for the County to avoid the City's obligations under the FOP's CNA and union representation. The charge further alleges all Camden City police officers were laid off the day prior to the creation of the County force to avoid unions members' rights.

The CSC layoff appeals were forwarded to the Office of Administrative Law where they were consolidated for hearing. The Director of Unfair Practices consolidate the PERC charges and issued a single complaint on March 14, 2014. The Appellants filed a motion to consolidate the Civil Service appeals with the PERC charges and for a predominant interest determination. The City and County opposed the motion.

1/ (...continued)
to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act. . . .
[and] (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative."

On July 8, 2014, Administrative Law Judge Joseph Lavery (ALJ) issued a decision and order consolidating the CSC and PERC cases before the OAL and determining that the CSC should have the predominant interest.

Having independently evaluated the record and considering the ALJ's Order, the CSC at its meeting on August 13, 2014 and the Chair of PERC, acting pursuant to the authority delegated to her by the full Commission, on August 1, 2014, determined that the cases should be consolidated consistent with both Commissions' approach in similar cases. PERC's unfair practice jurisdiction is exclusive. PERC shall have the predominant interest and the case should be processed in accordance with the following:

JOINT ORDER

The Civil Service layoff appeals and the Public Employment Relations Commission unfair practice 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 PERC and the CSC disposing of all issues in controversy through a single initial decision under N.J.A.C. 1:1-17.8(a); and

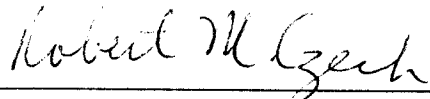
Upon transmittal of the initial decision to both agencies, the underlying record will be forwarded to PERC to determine whether the City of Camden and County of Camden committed an

unfair practice under the New Jersey Employer-Employee Relations Act; and

PERC's decision and the complete record will then be sent to the CSC which will then determine whether the layoff was for legitimate business reasons and was otherwise warranted under Civil Service laws; and

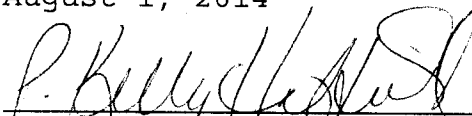
If appropriate, the matter will be returned to PERC for its consideration of whether specialized relief is warranted under its Act.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION
ON August 13, 2014



Robert M. Czech, Chairperson
Civil Service Commission

DECISION RENDERED BY THE CHAIR
OF THE PUBLIC EMPLOYMENT
RELATIONS COMMISSION ON
August 1, 2014



P. Kelly Hatfield, Chair
Public Employment Relations
Commission