

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF MAPLE SHADE,

Public Employer,

-and-

MAPLE SHADE P.B.A. LOCAL 267,

Docket No. CU-77-7

Petitioner,

-and-

AFSCME, LOCAL 1160,

Intervenor.

SYNOPSIS

The Commission denies review under N.J.A.C. 19:11-8.2 of a decision of the Director of Representation, D.R. No. 79-10. No cogent arguments have been presented warranting a reconsideration of the Director's conclusion that a police dispatcher holding special officer status is properly in a PBA unit for collective negotiations while other dispatchers should remain in a civilian unit. This issue has been treated by the Commission more than once before and further treatment would be superfluous.

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Appearances:

For the Public Employer, Hartman, Schlesinger,  
Schlosser & Faxon, Esqs. (John E. Harrington,  
of Counsel)

For the Petitioner, Tomar, Parks, Seliger,  
Simonoff & Adourian, Esqs. (Steven K. Kudatsky,  
of Counsel)

For the Intervenor, Mark Neimeiser, Associate  
Director, AFSCME, Local 73

DECISION ON REQUEST FOR REVIEW

The Director of Representation issued a Decision on October 13, 1978, ordering the removal of one police dispatcher/special officer from the AFSCME unit of blue and white collar employees of the Township of Maple Shade ("Township") and his placement in the PBA unit. He further directed that the remaining dispatchers, who had not been appointed special officers pursuant to N.J.S.A. 40A:14-146, should remain in the AFSCME unit. In re Twp. of Maple Shade, D.R. No. 79-10, 4 NJPER \_\_\_\_ (¶ 1978). Timely requests for review were filed by both the Township and the PBA pursuant to N.J.A.C. 19:11-8.1 et seq. Subsequent submissions

in letter form were made by both of these parties.<sup>1/</sup> Intervenor AFSCME has not filed any papers with the Commission regarding these requests.

Grounds submitted by the PBA for granting of review were the existence of a substantial question of law concerning the interpretation of the New Jersey Employer-Employee Relations Act (the "Act") due to the existence of special circumstances under N.J.S.A. 34:13A-5.3.

The Township's grounds included:

1. Existence of a substantial question of law concerning the interpretation of the Act.
2. Substantial factual error by the Director which is clearly erroneous on the record as to Special Officer duties.
3. Compelling reasons for reconsidering an important Commission policy on the unit placement of special officers, specifically that the Township in response to the Director's decision stripped the dispatcher in question of his special officer status.

Based upon careful review of the two requests, the Commission has determined that neither has put forth reasons which rise to the level required by N.J.A.C. 19:11-8.2, and they are therefore denied.

The question of unit placement of civilian police dispatchers, either with or without special officer status, is not a new one before this Commission. Both In re Township of Ewing, D.R. No. 78-21, 3 NJPER 353 (1977) and In re Borough of

<sup>1/</sup> These submissions go to the fact that a petition for decertification of AFSCME has been filed and an election ordered. This has no bearing on proper unit placement and will not be considered.

Avalon, E.D. No. 76-23, 2 NJPER 59 (1976) dealt with the same issue. Therein the then Executive Director (now Chairman) in Avalon and the Director of Representation in Ewing, applying the New Jersey Supreme Court's decision in County of Gloucester v. PERC, 55 N.J. 333 (1970), found that civilian dispatchers are not police within the meaning of the Act but that those who additionally have been appointed as special officers do have police powers as defined in Gloucester, even if only in reserve, and are police. Attempts to distinguish those decisions are totally unconvincing and we see no need to review the principles enunciated in them. Further, we find the record reveals no substantial errors of fact made by the Director.

Also raised is the question of "special circumstances" which appears in N.J.S.A. 34:13A-5.3 as grounds for an exception to the legislatively stated policy of requiring police to remain apart from all other public employees.<sup>2/</sup> As an exception to a stated public policy, we believe that "special circumstances" generally should be read narrowly, and limited to those rare situations in which unique facts require exceptional action. The fact that dispatchers are somewhat integrated into police services is not a rare occurrence and does not call for this Commission to carve a rather large exception to the statutory rule; nor is this a case in which, if the dispatchers are not included in the P.B.A. unit, there is no

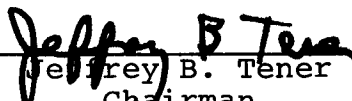
<sup>2/</sup> The statute provides in relevant part that "...except where established practice, prior agreement, or special circumstances dictate the contrary, no policeman shall have the right to join an employee organization that admits employees other than policemen to membership."

other unit in which they could reasonably be placed.

The Township raises the issue of the hardship suffered by the special officers as a result of the Township's decision, allegedly in response to the Director's decision, to strip the dispatcher of his special officer status. Two observations are appropriate. First, it is not the Director's decision which leads to this hardship but rather the Township's. Second, we note that this matter is before the Commission as an unfair practice charge and consideration of any aspect of that matter is proper only in the context of the pending unfair practice decision. It can have no effect on our decision herein.

The Director of Representation has given this matter full consideration after the parties had gone through a lengthy hearing from which the Hearing Officer reached the same conclusions. Given the responsibility placed on the Director of Representation in this field by the Administrative Code,<sup>3/</sup> we are loath to tamper with his conclusions unless overpowering evidence to the contrary is presented, and that has not been done herein. Based upon the foregoing, we do deny both requests for review.

BY ORDER OF THE COMMISSION

  
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Jeffrey B. Tener  
Chairman

Chairman Tener, Commissioners Parcels, Hartnett, Hipp and Schwartz voted for this decision. None opposed. Commissioner Graves was not present.  
DATED: Trenton, New Jersey  
December 14, 1978  
ISSUED: December 15, 1978

3/ See N.J.A.C. 19:10-1.1.