COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

TEAMSTERS LOCAL 776	:	
	:	
v.	:	CASE NO. PERA-C-24-22-E
	:	
COUNTY OF ADAMS;	:	
ADAMS COUNTY COURT OF COMMON PLEAS	:	
	:	

ORDER GRANTING MOTION TO DISMISS UNFAIR PRACTICE CHARGE AGAINST ADAMS COUNTY COURT OF COMMON PLEAS

On February 5, 2024, Teamsters Local 776 (Union) filed with the Pennsylvania Labor Relations Board (Board) a charge of unfair practices against the County of Adams (County) and the Adams County Court of Common Pleas (Court). In the charge, the Union alleges that the County and the Court violated Section 1201(a)(1), (3), and (5) of the Public Employe Relations Act (Act or PERA). The Union refers to the County and the Court jointly as "Employer" in its specification of charges.

The Union represents a bargaining unit of court-appointed, non-professional employes, who are hired, supervised, directed, and discharged by the Court. (Specification of Charges; PERA-R-08-79-E). The Union alleges that, on or about January 1, 2024, the "Employer" discharged Chief Union Steward Aurora Bayles for her Union activity to discourage Union membership and that Ms. Bayles was treated disparately than other employes who committed more serious offenses because of her Union activities.

The Union also alleges that the "Employer," to discourage membership in the Union, discriminated against bargaining unit employes by granting wage increases to "all employes with the exception of this unit" and discharged the Steward who was active in negotiations. The Union alleges that, on or about January 1, 2024, and since that date, the "Employer" promised benefits to non-Union employes and by other acts interfered with, restrained, and coerced employes in the exercise of rights guaranteed under the Act. The Union alleges that the "Employer" stated: "if the employees in this unit were non-union, they would receive an increase of four percent and if they were Union, they would receive zero increase."

The Union further alleges that the "Employer" has refused to negotiate and/or arbitrate a new contract and has engaged in the above unfair practices in violation of the Act. The Union alleges that a "fair election cannot be held in that the Employer has promised wage increases if the employees became non-union in this unit" and that, in the context of a pending decertification petition, "the discharge of the Chief Steward for this unit makes a fair election impossible based on the totality of the circumstances with the wage increase and the discharge."

On April 10, 2024, the Administrative Office of Pennsylvania Courts of the Supreme Court of Pennsylvania (AOPC) filed a "Motion to Dismiss Complaint of Unfair Labor Practice under the Public Employe Relations Act on behalf of the Respondent Adams County Court of Common Pleas." I directed the County and the Union to respond to the Court's Motion by May 10, 2024. On May 9, 2024, the Union requested a 3-week extension, which I granted, setting a new

response date for May 31, 2024. The County filed its response on May 10, 2024. The Union filed its response on May 31, 2024.

The applicable standard for ruling on a pre-hearing motion to dismiss is as follows:

> A prehearing motion to dismiss is in the nature of a demurrer and all well-pleaded facts in the specification of charges and all reasonable inferences deduced therefrom must be accepted as true. City of Philadelphia v. Buck, 587 A.2d 875 (Pa. Cmwlth. 1991). Indeed, in determining whether to issue a complaint, the Secretary of the Board assumes that the allegations in the specification of charges are true. Pennsylvania Social Services Union, Local 668 v. PLRB, 481 Pa. 81, 392 A.2d 256 (1978). Legal conclusions, unjustified inferences, argumentative allegations and expressions of opinion are not deemed admitted. A demurrer will be sustained only when it appears with certainty that the law permits no recovery under the allegations pleaded. Buck, 587 A.2d at 877.

Metropolitan Regional Council of Carpenters v. Pennsylvania Convention Center Authority; Teamsters Local 107 v. Pennsylvania Convention Center Authority, 46 PPER 89 (PDO, 2015),

Although the Union refers to the County and the Court jointly as the "Employer," the facts as pled yield the reasonable inference that only the Court was, and reasonably could be, responsible for discharging Ms. Bayles, not the County. Also, the reasonable inferences from the Gettysburg Times article, which was attached to the Union's charge and accepted herein as true at this time, provides that the Adams County salary board, was responsible for approving the alleged 4% wage increase for non-bargaining unit employes, not the Court. Furthermore, the Union did not allege that judges or Court management promised benefits to non-Union employes. The Union did not allege that Judges or Court management told bargaining unit employes that, if they became non-Union, they would receive a 4% wage increase. The Union did not allege that judges or Court management told bargaining unit employes that, if they remained in the Union, they would receive no wage increase. Therefore, only the claims pertaining to the discharge of Ms. Bayles, as allegedly unlawful under the Act, involve the Court. For purposes of ruling on the AOPC's Motion, I have separated the County from the Court and treat them herein as separate respondents. The AOPC argues in its Motion that the Board does not have jurisdiction over the Court, under the Separation of Powers Doctrine, to review its employment action against Ms. Bayles. I agree with the AOPC based on a series of Supreme Court and Commonwealth Court decisions supporting its position.

In Beckert v. AFSCME, 425 A.2d 859 (Pa. Cmwlth. 1981), the union filed an unfair practice charge against the Bucks County Court of Common Pleas for failing to honor a step-2 grievance settlement to reinstate an employe discharged by a district justice when the designees of the President Judge reversed the settlement and upheld the discharge at step 3. The Board issued a complaint at which time President Judge Beckert filed an action in equity seeking to enjoin the Board from exercising jurisdiction under the Separation of Powers Doctrine. The Commonwealth Court held that the Board must be enjoined from exercising jurisdiction over unfair practice charges involving the discharge of a judicial branch employe. In so holding, the Commonwealth Court stated:

> Based on the principles we have set forth, we must conclude that the discharge of a judicial employee is a judicial power vested by our Constitution in the courts. That power may not, consistent with the constitutional doctrine of separation of powers, be policed, encroached upon, or diminished by another branch of government. PERA grants to judicial employees the right to organize and to bargain collectively with county commissioners, or other management representatives of the courts, concerning the financial terms of employment. That much our Supreme Court has decided. However, PERA cannot constitutionally be interpreted as immunizing such employees from the inherent judicial power of discharge. Given that such power is a judicial one under the Pennsylvania Constitution, it would cease to be a judicial power if its exercise was subject to the monitoring and review of another branch of government.
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> Although county commissioners may act for judges in collective bargaining proceedings over financial matters, it is difficult to imagine how such representatives could serve as proxy for a judge in an administrative hearing concerning the discharge of a court employee. Quite often, the reason for such discharge will be within the personal knowledge of a particular judge. It would be adverse to the efficient functioning of the court system if judges had to become witnesses in administrative proceedings. Neither efficiency nor constitutional values are served if a judge must look over his shoulder to an agency of some other branch if he elects to discharge an unproductive law clerk, incompetent secretary, or any other court employee under his supervision.

Beckert, 425 A.2d at

In Teamsters Local 115 v. PLRB (Teamsters 115), 619 A.2d 382 (Pa. Cmwlth. 1992), soon after the commencement of a union organizing drive, the Philadelphia Court of Common Pleas eliminated the positions of court criers, court officers, and judicial aides, reclassifying them as tipstaff. All of those employes were eliminated, although some of the affected employes were rehired. The Philadelphia Court also eliminated approximately 100 maintenance and custodial positions through privatization 1 week after the recognition of the Union. The Commonwealth Court distinguished Beckert and held that the Board does have jurisdiction over unfair practice claims alleging that a court of common pleas eliminated positions for the purpose of preventing employes from exercising their statutory right to bargain under PERA. The Teamsters 115 Court stated that Beckert stands for the proposition that the ultimate resolution of a dispute over a collective bargaining agreement *which already exists* cannot rest with the executive or legislative branches of government where the issue concerns the authority to select, discharge, or supervise court personnel." Teamsters 115, 619 A.2d at 387 (emphasis original).

The Teamsters 115 Court recognized: "the competing rights of the courts to supervise their employees and the correlative right of all public employees in Pennsylvania, including judicial employees, to organize." Id. at 404. The Teamsters 115 Court further explained as follows:

> The courts have the inherent right to hire, fire and discharge court employees and such right does not admit of any impingement on the part of the executive or legislative branches. At the same time,

> however, the employees possess the right to organize and bargain collectively, and the vindication of their rights is left to, in the first instance, the executive branch of government in the form of the Pennsylvania Labor Relations Board.

Id. at 404-405.

The Court, in Teamsters 115, further concluded "that the judiciary cannot fire its employees at its pleasure *where its motivation is to prevent organization and bargaining under Act 195*." Teamsters 115, 619 A.2d at 408 (emphasis added). Subsequent appellate court cases, however, will expose the uniqueness and rarity of the Teamsters 115 facts and the limited applicability of the case as precedent. Indeed, the anomalous circumstances presented in Teamsters 115 will probably not recur. The appellate cases consistently and explicitly hold that the Board and other executive agencies, such as the Pennsylvania Human Relations Commission (PHRC), completely lack any jurisdiction to review the selection, supervision, discipline, and/or discharge of court personnel.

In First Judicial District of Pennsylvania v. Pennsylvania Human Relations Commission, 556 Pa. 258, 727 A.2d 1110 (1999), our Supreme Court stated: "we hold that the commission has no jurisdiction, because of the separation of powers doctrine, to adjudicate any complaints against the judicial branch." Id. at 262-263, 727 A.2d at 1112 (emphasis added). The Court, in First Judicial District, further stated:

> This holding is only a logical extension of the holding in *Erie v. PHRC* that "the separation of powers doctrine requires that judges retain the authority to select, discharge and supervise court employees." It is self-evident that if the commission imposed methods of employee selection or supervision or discharge, or directed that certain working conditions rather than others must apply, judges would have lost the power to control these aspects of the operation of the courts. The fundamental error in *Wilcox* was not recognizing that a non-judicial agency's involvement in running the courts can never survive constitutional scrutiny, for no matter how innocuous the involvement may seem, the fact remains that if an agency of the executive branch instructs a court on its employment policies, of necessity, the courts themselves are not supervising their operations.

Id. at 263, 727 A.2d at 1112 (citations omitted).

In Renner v. Court of Common Pleas of Lehigh County, 195 A.3d 1070 (Pa. Cmwlth. 2018), *aff'd*, 660 Pa. 255, 234 A.3d 411 (2020), the Commonwealth Court, consistent with these prior decisions, again held that the Pennsylvania Human Relations Commission "has no jurisdiction, because of the separation of powers doctrine, to adjudicate any complaints against the judicial branch," and that "[u]nder the doctrine of separation of powers, the legislature may not exercise any power specifically entrusted to the judiciary." Id. at 1077. Taken together, these prior holdings preclude any attempt by other branches of Commonwealth government to assume jurisdiction over the judiciary's employee selection, supervision, and/or discharge as unconstitutional. Like the PHRC, this Board is an administrative agency that is not part of the judicial branch of government and, therefore, may not review the employment decisions of the Adams County Court of Common Pleas.

In affirming the Commonwealth Court, the Supreme Court, in Renner, went further and held that not only does the PHRC lack jurisdiction to review, investigate, and judge personnel matters within the courts, but also the Pennsylvania Human Relations Act (PHRA) cannot apply to the courts, and individuals are precluded from bringing an action under the PHRA in the courts. Specifically, the Court stated: "we hold that application of the PHRA to the judiciary and its employees infringes upon this Court's ability to administer the courts, promulgate rules and polices, and supervise its employees, and thus, violates separation of powers principles." Renner, 234 A.3d at 425. The Supreme Court further stated: "As the Pennsylvania Constitution vests in the judiciary the exclusive power over the administration of the courts, rulemaking, and supervision of its personnel, it is the Court, and only the Court, that provides protection for employees subject to discrimination, independent of executive and legislative branches, through its own rules, polices, and procedures." Id. at 426.

The Renner Court also concluded that its holding was consistent with its holding in Bradley v. PLRB, 479 Pa. 440, 388 A.2d 736 (1978), wherein the High Court concluded that PERA did not violate separation of powers and applied to court personnel only to the extent that the county commissioners may bargain financial terms of employment for court employes without encroaching on the personnel administration of court employes. In Bradley, the Supreme Court stated that "so long as judges retain authority to select, discharge, and supervise court personnel, the independence of the judiciary remains unimpaired." Bradley, 388 A.2d at 739. Accordingly, unlike the PHRA, PERA applies to the courts providing collective bargaining rights to court employes. However, this Board does not have the jurisdiction to review or remedy employment actions taken against court personnel, allegedly in violation of PERA.

Recently, the Commonwealth Court again expressly held, in a memorandum opinion, that this Board lacks jurisdiction over employment actions taken by a court of common pleas. In Cook v. PLRB, 2024 WL 1478582 (Case No. 161 M.D. 2021), President Judge Cook of the York County Court of Common Pleas appealed the final order of this Board and also filed a declaratory judgment action in the Commonwealth Court's original jurisdiction. The Board had affirmed a hearing examiner's decision that the York County Court of Common Pleas did not commit unfair practices against an employe who filed a grievance over a written reprimand, after which the Director of Probation Services increased the discipline to a 2-day suspension upon reviewing the grievance.

The Board and the examiner concluded that the court did not discriminate against the judicial employe for filing the grievance. However, the court had throughout the proceedings contested the Board's jurisdiction to entertain the charge of unfair practices, under Beckert, supra. The Board had filed an application for summary relief, which the Commonwealth Court dismissed. In an unreported decision, the Commonwealth Court, *en banc*, further granted the Common Pleas Court's application for declaratory judgment and concluded "that the Board lacked jurisdiction to issue the complaint" in the first instance and vacated the Board's final order.

The Cook Court emphatically ruled that this Board cannot, even for an instant, assert jurisdiction over a court to review the court's supervision and discipline of court-appointed employes, as a matter of law, under the Separation of Powers Doctrine. In support of this ruling, the Cook Court opined as follows:

> Here, . . . there is nothing 'theoretical' about the encroachment on Common Pleas' constitutional authority to supervise and discipline its employees if the Board is permitted to review those disciplinary decisions. Based on the Board's assertion of jurisdiction, Common Pleas, a part of the judiciary, was called before the Board, a part of the executive branch, for the **Board** to determine whether **Common Pleas'** actions in disciplining Probation Officer were lawful. Thus, there is a nexus between the Board's assertion of jurisdiction and the injury to Common Pleas' exclusive authority to supervise and discipline its employes, which is a part of its constitutional power to administer justice and essential to maintaining an independent judiciary.

Cook, supra at 8 (emphasis original).

The Union in this case has made a laudable effort in arguing that the instant unfair practice charge falls under Teamsters 115 and not Beckert and that this Board, therefore, does have jurisdiction over the discharge of Ms. Bayles. The Union contends that the charge claims that the Adams County Court of Common Pleas allegedly violated employes' rights to organize and bargain under the Act and that the Board's jurisdiction over the Court does not violate separation of powers, within the meaning of Teamsters 115. (Union Opposition Brief at 3-8). The Union emphasizes that the appellate courts have protected the right of judicial employes to organize and bargain for better terms and conditions of employment and that judicial interference with those rights should be heard by the Board. (Union Opposition Brief at 6-9). The Union further contends that the "'failure of the Board to accept jurisdiction in the instant case would eviscerate the rights of Court employees under Act 195.'" (Union Opposition Brief at 7)(quoting Teamsters 115, 619 A.2d at 405).

The Union also contends that Cook is not applicable for 2 reasons: (1) As an unpublished opinion, Cook is not binding precedent under the Pennsylvania Rules of Appellate Procedure 126; and (2) The instant matter is about whether the Court infringed on judicial employes' rights to organize, and it is not challenging the Court's inherent right to hire, fire, and supervise its judicial employes. (Union Opposition Brief at 11-13).

The Commonwealth Court decision in Cook involved the Board as a party litigant. Cook is not a case being cited for a proposition that involved other parties, such as the Renner decision. In Cook, the Commonwealth Court directly and explicitly issued an order against this Board, as a party to the case, that it does not have jurisdiction to entertain a claim about a common pleas court's discipline of a judicial employe. Cook is, therefore, absolutely binding on this Board, regardless of whether it is published.

Also, Rule 103 of the Rules of Appellate Procedure provides: "These rules govern practice and procedure in the Supreme Court, the Superior Court and the Commonwealth Court, including procedure in appeals to such courts from lower courts and the procedure for direct review in such courts of determinations of government units." According to the plain language of Rule 103, Rule 126 of the Rules of Appellate Procedure only applies to citing cases before the appellate courts in the Commonwealth and not the Board, where this matter is being considered. Furthermore, the Cook case has a published West Law citation, as referenced above. In this manner, the case is knowable and citable by the labor bar as a Commonwealth Court decision that is binding on the Board and persuasive for other administrative agencies.

In the case *sub judice*, a number of Court employes have supported the filing of a decertification petition, which is pending. The Adams County Court allegedly terminated Ms. Bayles, the Chief Steward for the bargaining unit. There is a collective bargaining agreement in place, and the parties are operating under the status quo of that agreement. In this context, the Adams County Court has certainly not prevented its employes from organizing and bargaining under PERA, as was the case in Teamsters 115. The Union has alleged that the Court's termination of Ms. Bayles prevents a fair election regarding the decertification of the Union. The Union posits that the termination of the Chief Steward arguably affects employes' rights to freely choose whether they wish to continue exercising their bargaining rights under the Act, which falls within Teamsters 115.

The Union further argues the following in its brief:

> The [Cook] Court asked the differentiating question between Beckert and Teamsters 115. Whether the matter revolves around the discipline of a judicial employee or the organizing of employees. If the discipline of employees is at the heart of the matter, then the judiciary must hold jurisdiction to protect the right of the judiciary to hire, fire, and supervise their branch of power. But if the matter revolves around the employees' right to organize, Teamsters 115 would control. Cook is explicit that the PLRB did not have jurisdiction because it was a question of employee discipline, not involving the employees' right to organize.

(Union Opposition Brief at 13).

The Union contends that the Court allegedly discharged the chief negotiator and steward for the Union to prevent the Union from organizing employes to vote for the Union in a decertification election and to prevent bargaining a successor contract during the status quo. The discharge of Ms. Bayles, argues the Union, has allegedly interfered with the organizing and bargaining rights of employes. However, although the Union wants the Board's jurisdiction in this case to be determined by the holding in Teamsters 115, the unique circumstances that were present in that case are not present here, and Teamsters 115 is inapposite.

In Teamsters 115, 100-plus employes lost their jobs to privatization allegedly to prevent the organizing of the employes. The elimination of that many employes and replacing them with private sector employes completely prevented the employes from organizing under PERA. The court's replacement of the vast majority of its public employes with private sector employes was reviewable by the Board because it prevented the applicability of PERA to the court's former employes and the private sector replacements. The Teamsters 115 Court concluded that the Board may review whether a court eliminated numerous employes to prevent them from organizing under PERA.

This case is distinguishable from Teamsters 115. In this case, a single employe, i.e., Ms. Bayles, was terminated. The Union alleged that Ms. Bayles was treated disparately than other employes who committed more serious offenses because of her Union activities. A reasonable inference from this allegation is that Ms. Bayles did commit some offense for which she was terminated. Accordingly, the Court's

termination of Ms. Bayles was an act of discipline for the offense that she committed.

However, the Court did not replace the vast majority of its non-professional employes with private sector employes to completely prevent organizing and bargaining under PERA. Rather, this case is governed by Beckert and Cook, both of which stated that a single court employe does not have the right to have his or her discipline reviewed by a non-judicial branch of government, i.e., the Board, regardless of whether the discipline was allegedly discriminatorily motivated. Therefore, the reason for the discharge of a single court employe is not reviewable by the Board regardless of whether the court's purpose was to influence voting pursuant to the decertification process. Regardless of the results of the decertification vote, the employes still have access to PERA's processes, unlike in Teamsters 115. The Court here is not trying to block the application of PERA and employes' rights thereunder, requiring the Board's expertise to prevent the evisceration of those rights, as in Teamsters 115.

In Teamsters 115, there was no mention of giving the Board jurisdiction to review select disciplinary terminations. There was no mention of terminating certain Union organizers or would-be stewards and negotiators to effectively undermine organizing and/or bargaining. As long as a court's remaining employes continue to have access to PERA, the Board does not have jurisdiction to review the circumstances surrounding a single disciplined employe, even if the discipline may have impacted employes' perceptions and, therefore, voting and bargaining. To agree with the Union's position in this case would undermine Beckert and Cook. Under the Union's theory, in charges alleging the discriminatory discharge of a court employe and union representatives, the averment that the discharge impacts bargaining or organizing rights would require the Board to exercise jurisdiction. Single employe discharge is simply not Teamsters 115.

The disciplinary action of the Adams County Court against Ms. Bayles is not reviewable by this Board and distinguishes this case from the non-disciplinary, massive layoffs in Teamsters 115 that completely prevented those court employes from accessing the organizing and bargaining rights guaranteed by PERA. Even assuming that the Adams County Court terminated Ms. Bayles because she was the Chief Steward and because the Court intended to affect the results of the decertification efforts, this Board lacks jurisdiction to review her termination. Applying the Union's words to this conclusion, the discipline of Ms. Bayles is at the heart of the matter, and the judiciary alone must hold jurisdiction to protect its right to hire, fire, and supervise employes within its branch of power. Simply stated, this is a discipline case governed by Cook, supra, and Beckert, supra, and not a suspension-of-PERA case, governed by Teamsters 115, supra.

Therefore, the Board does not have jurisdiction over the unfair practice claims involving the Court's alleged discharge of Ms. Bayles, as a matter of law, notwithstanding the reason for her discharge or the effect on the bargaining unit employes. Only the Court can determine and select which personnel are properly suited for its judicial operations and administration, and such personnel matters are not reviewable in a forum outside of the judicial branch of government. First Judicial District of Pennsylvania, supra; Cook, supra; Beckert,

supra; Renner, supra. Members of the Adams County Court and its management team cannot be called before this Board to answer for the discipline of Ms. Bayles and cannot be subject to an executive branch determination of whether her discharge was lawful.

Accordingly, the charge is hereby dismissed, and the complaint is rescinded as against the Court of Common Pleas of Adams County.

CONCLUSIONS

The hearing examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds as follows:

1. The Court is a public employer under PERA. (PERA-R-08-79-E).

2. The Union is an employe organization under PERA. (PERA-R-08-79-E).

3. The Board does not have jurisdiction over the Court.

ORDER

In view of the foregoing and in order to effectuate the policies of PERA, the hearing examiner:

HEREBY ORDERS AND DIRECTS

That the charge against the Court is dismissed, and the complaint against the Court is rescinded.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

That in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty days of the date hereof, this order shall be and become final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this sixth day of June 2024.

PENNSYLVANIA LABOR RELATIONS BOARD

/S/ JACK E. MARINO

Jack E. Marino, Hearing Examiner