

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
: :
: Case No. PERA-R-21-146-E
: :
CHESTER COUNTY :

FINAL ORDER

A Petition for Representation under the Public Employee Relations Act (PERA) was filed with the Pennsylvania Labor Relations Board (Board) on July 19, 2021, alleging that thirty percent or more of certain employees of Chester County (County or Employer) desire to be represented by the Deputy Sheriffs' Association of Chester County (Petitioner). The Petitioner further alleged that the petitioned for employees were security guards under Section 604(3) of PERA and requested that pursuant to Section 603 of PERA the Board schedule a hearing and order an election among the deputy sheriffs.

By letter dated and issued on September 8, 2021, the Secretary of the Board declined to direct a hearing and dismissed the Petition for Representation. The Secretary stated that the petition failed to include documentation of an official action taken by the County Commissioners to evidence the County's intent to use deputy sheriffs as security guards within the meaning of PERA. Secondly, the Secretary noted that documentation attached to the petition from the Fraternal Order of Police, Lodge No. 11 (FOP) showed an impermissible affiliation between Petitioner and the FOP contrary to Section 604(3) of PERA.

On September 28, 2021, the Petitioner filed timely exceptions and a supporting brief with the Board challenging the Secretary's dismissal of the Petition for Representation. The County Commissioners filed a response to the exceptions and brief in opposition to the exceptions on October 18, 2021.

On exceptions the Petitioner argues that the May 27, 2021 Memorandum from Lieutenant Adam M. Sibley in the Chester County Sheriff's Office, is sufficient to show that the County intends to use deputy sheriffs as security guards within the meaning of PERA. However, as the Commonwealth Court stated in Butler County Deputy Sheriff's Unit v. PLRB, 911 A.2d 218 (2006), for the "employer-protection" analysis of security guard status to apply under Section 604(3) of PERA, the request to designate the deputy sheriffs as security guards must come from the employer. The County Commissioners are the employer for purposes of representation matters involving employees of the sheriff's office. 16 P.S. §1620. Accordingly, a memo from a lieutenant in the Office of the Sheriff is inadequate to evidence the County Commissioner's intent to use the deputy sheriffs as security guards under PERA. Moreover, here, contrary to the Lieutenant's May 27, 2021 memo, the County Commissioners filed a brief in opposition to the exceptions challenging the Petitioner's allegation that the County intends to use deputy sheriffs as security guards. See Chester County, 26 PPER ¶26118 (Proposed Decision and Order, 1995). The failure to establish that the County Commissioners intend to use deputy sheriffs as security guards is itself sufficient to warrant sustaining the dismissal of the petition.

After a thorough review of the exceptions and all matters of record, we find that the Petitioner failed to provide adequate documentation that the County Commissioners intend to use deputy sheriffs as security guards under Section 604(3) of PERA. Accordingly, the Secretary of the Board did not err in administratively dismissing the Petition for Representation without a hearing, and the September 8, 2021 decision of the Secretary shall be sustained.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employe Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions filed to the above captioned matter are hereby dismissed, and the Secretary's September 8, 2021 decision administratively dismissing the petition without a hearing, be and hereby is made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, James M. Darby, Chairman, Albert Mezzaroba, Member, and Gary Masino, Member, this twenty-first day of December, 2021. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within Order.