

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :  
 :  
 : Case No. PERA-R-22-247-E  
 :  
WAYNE COUNTY :

**FINAL ORDER**

A Petition for Representation under the Public Employee Relations Act (PERA) was filed with the Pennsylvania Labor Relations Board (Board) on September 12, 2022, alleging that thirty percent or more of certain employees of Wayne County (County or Employer) desire to be represented by the International Brotherhood of Teamsters, Local 229 (Petitioner). Upon an investigation of the Petition, by letter dated and issued on October 14, 2022, the Secretary of the Board declined to direct a hearing and dismissed the Petition for Representation. The Secretary noted that in Case No. PERA-R-10-366-E, wherein the Board excluded deputy sheriffs from the certified broad-based bargaining unit of nonprofessional court-related employees, that the County had stipulated that it would utilize the deputy sheriffs as security guards within the meaning of Section 604(3) of PERA. Accordingly, the Secretary determined that the Petitioner was legally precluded from representing a bargaining unit of security guards under Section 604(3) of PERA and declined to direct a hearing on the Petition.

On November 3, 2022, the Petitioner filed timely exceptions and a supporting brief with the Board challenging the Secretary's dismissal of the Petition for Representation. On exceptions, the Petitioner argues that the deputy sheriffs in Wayne County are not security guards under 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, there only needs to be official action of the County Commissioners to designate the deputy sheriffs as security guards. In Case No. PERA-R-10-366-E, the County Commissioners had designated the deputy sheriffs as security guards under Section 604(3) of PERA to exclude them from the broad-based unit of court-related employees. Indeed, in this case on November 15, 2022, the County filed a response to the Petitioner's exceptions, asserting therein that the deputy sheriffs in Wayne County were designated by the Commissioners as security guards, and attached an attestation of the custodian of records for the Commissioners that the policy to use deputy sheriffs as security guards that was asserted in Case No. PERA-R-10-366-E is currently still in effect.

Under Section 604(3) of PERA, for a labor organization to be able to represent security guards it must not be affiliated with any other organization that represents or includes as members persons other than security guards. Temple University, 26 PPER ¶26161 (Final Order, 1995). The International Brotherhood of Teamsters is an organization which represents persons outside of the classification of security guard, and thus Petitioner cannot represent a unit of security guards under PERA. Accordingly, here, the Petitioner is precluded from representing a unit of deputy sheriffs that have been designated by the Employer to be security guards under PERA.

Even if the deputy sheriffs were found to no longer be security guards, the Petition for Representation would nevertheless need to be dismissed without a hearing. Petitioner avers that deputy sheriffs who are not security guards must be included in the broad-based unit of nonprofessional court-related employees. We agree. Venango County, 22 PPER ¶ 22153 (Final Order, 1991). Here, although a broad-based court-related unit was certified at Case No. PERA-R-10-366-E, more recently in Case No. PERA-D-20-242-E, that bargaining unit has been decertified. Accordingly, if the deputy sheriffs are not security guards they would be required to be included in a unit with the other court-related employees. As such, the Petition for Representation for only a unit of deputy sheriffs is inappropriate and properly dismissed.

After a thorough review of the exceptions and all matters of record, we find that the Secretary of the Board did not err in administratively dismissing the Petition for Representation without a hearing, and the October 14, 2022 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 October 14, 2022 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 twentieth day of December, 2022. 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.