

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

SERVICE EMPLOYEES INTERNATIONAL UNION :
LOCAL 668, PSSU :
v. : Case No. PERA-C-19-26-E
CHESTER COUNTY COURT OF COMMON PLEAS :

FINAL ORDER

The Service Employees International Union, Local 668, Pennsylvania Social Services Union (SEIU) filed a Charge of Unfair Practices with the Pennsylvania Labor Relations Board (Board) on February 4, 2019, alleging that Chester County and the Chester County Court of Common Pleas (collectively Employer) violated Section 1201(a)(1) of the Public Employee Relations Act (PERA) by denying an adult probation officer a union representative during an investigatory interview.¹ On March 28, 2019, the Secretary of the Board issued a Complaint and Notice of Hearing on the Charge of Unfair Practices. On April 15, 2019 and May 2, 2019, the Employer filed motions to dismiss the complaint, alleging that the Board lacked jurisdiction to hear the alleged unfair practice claims involving court-appointed employees, and that only the court of common pleas was involved in the alleged *Weingarten* violation.

By letter dated June 12, 2019, the Hearing Examiner granted the motion to dismiss filed by the County Commissioners, granted the parties' request to file stipulated facts in lieu of a hearing, and directed briefing on the motion to dismiss filed by the Chester County Court of Common Pleas. On January 15, 2020, the Hearing Examiner issued a Proposed Decision and Order (PDO) denying the court's motion to dismiss and concluded that the Chester County Court of Common Pleas violated Section 1201(a)(1) by denying a court-appointed employee's request for a union representative during an investigatory interview. On February 4, 2020, the Chester County Court of Common Pleas filed timely exceptions to the Hearing Examiner's PDO.

On May 18, 2021, the York County Court of Common Pleas filed a Declaratory Judgement action in the Commonwealth Court's original jurisdiction asserting that the Board lacked jurisdiction to entertain charges of unfair practices involving hiring, firing and supervision of court-appointed employees.² In seeking declaratory relief, the York County Court of Common Pleas specifically raised the January 15, 2020 PDO issued in the instant unfair practice charge involving Chester County Court of Common Pleas' denial of *Weingarten* representation. In response to the York County Court of Common Pleas' Motion for Summary Relief in that case, the Board

¹ National Labor Relations Board v. J. Weingarten, Inc., 420 U.S. 251, 95 S.Ct. 959 (1975), holding that an employee has the right to assistance of a union representative at an interview with the employer where the employee has a reasonable fear that discipline may result from the investigation. Commonwealth, Office of Administration v. PLRB, 916 A.2d 541 (Pa. 2007).

² The declaratory judgement action filed with the Commonwealth Court at No. 161 M.D. 2020, arose in the context of a charge of unfair practices filed in SEIU Local 668 PSSU v. York County and York County Court of Common Pleas, at Case No. PERA-C-18-120-E.

argued that the charge of unfair practices that was filed also involved an independent violation of Section 1201(a)(1) which was separate from the disciplinary matters at issue, and that the Board should have jurisdiction to entertain those unfair practices involving interference, restraint or coercion of an employee's statutory right under Article IV of PERA to seek assistance of a union representative. Nevertheless, the Commonwealth Court granted the York County Court of Common Pleas' Motion for Summary Relief and held that the Board lacks jurisdiction to review or entertain unfair practice charges in such cases involving the court's oversight of court-appointed employees. Honorable Maria Musti Cook and the Court of Common Pleas of York County v. PLRB, 161 M.D. 2021, 55 PPER 57 (April 4, 2024).

Therefore, in accordance with the Commonwealth Court's holding in York County Court of Common Pleas, the Board lacks jurisdiction to entertain the unfair practice charge filed in the above captioned case alleging that the Chester County Court of Common Pleas committed an independent violation of Section 1201(a)(1) involving a court-appointed employee. Accordingly, after a thorough review of the exceptions and all matters of record, and the holding in York County Court of Common Pleas, supra., the charge of unfair practices in the above captioned case alleging a violation of Section 1201(a)(1) for court-appointed employees, must be dismissed.

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 by Chester County Court of Common Pleas are sustained, and the January 15, 2020 PDO is hereby vacated and set aside.

IT IS FURTHER ORDERED AND DIRECTED

that the Charge of Unfair Practices filed by SEIU is dismissed, and the Complaint issued thereon is rescinded.

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 eighteenth day of June, 2024. 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.