

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

TEAMSTERS LOCAL UNION 229 :  
 :  
 : CASE NO. PERA-C-24-58-E  
 v. :  
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 SUSQUEHANNA COUNTY :  
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**PROPOSED DECISION AND ORDER**

On March 22, 2024, Teamsters Local Union 229 (Union) filed a charge of unfair practices with the Pennsylvania Labor Relations Board (Board) alleging that Susquehanna County (County or Employer) violated Section 1201(a) (1), (2) and (3) of the Public Employe Relations Act (PERA or Act) by encouraging and supporting a decertification process against the Union.

On April 2, 2024, the Secretary of the Board issued a complaint and notice of hearing, assigning the charge to conciliation for the purpose of resolving the matters in dispute through mutual agreement of the parties, and designating April 29, 2024, in Harrisburg, as the time and place of hearing.

The hearing was necessary and held on April 29, 2024, in Scranton, before the undersigned Hearing Examiner, at which time all parties in interest were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence. The Union and the County filed post-hearing briefs on June 21, 2024.

The Hearing Examiner, based upon all matters of record, makes the following:

**FINDINGS OF FACT**

1. Susquehanna County is a public employer within the meaning of Section 301(1) of PERA. (N.T. 7).

2. The Union is an employe organization within the meaning of Section 301(3) of PERA. The Union is the exclusive bargaining representative for several units in the County including court-related unit. The employes in the court-related employes unit include nonprofessional employes in the various County row offices. The parties are subject to a Collective Bargaining Agreement with the effective dates of January 1, 2021, through December 31, 2024. (N.T. 17; Union Exhibit 1).

3. Rebecca Hubbard is the Chief Clerk in the Commissioners' Office. She has been Chief Clerk since January 2020. As Chief Clerk, Hubbard manages the Office of the Commissioners. She prepares the public meetings and oversees the general management and day-to-day functions of the Courthouse including twenty County departments. Hubbard is not in any bargaining-unit and reports to the Commissioners directly. Hubbard is the main County liaison for labor issues and

would represent the County during negotiations of labor contracts. (N.T. 13-15, 18-19).

4. The Union is represented by Michael Kovaleski. He is not a County employe. When Hubbard has questions or issues regarding the Union, she has spoken to Kovaleski. Over the past four years she has been Chief Clerk, she has spoken to Kovaleski approximately once a month on Union issues. (N.T. 18).

5. Vicki Walsh began working for the County on May 1, 2013. She was hired as the 2<sup>nd</sup> Deputy Prothonotary / Clerk of Courts, which is a position in the bargaining unit. (N.T. 36).

6. Walsh reports to Margaret Krupinski, who is the Prothonotary and Clerk of Court. (N.T. 37-38).

7. Walsh began a decertification process for the Union because she does not want to be part of the Union. She testified "I have no use for it. I can't afford it. I don't want it. I don't need somebody to dictate to me how my time should be spent. If I cannot pay into them and they cannot have my back end of it. It's not even worth it to me." (N.T. 45).

8. Walsh researched the decertification process online and talked to family members and employes at the County to learn about the process. (N.T. 45-51).

9. Walsh first attempted to file a decertification petition (docketed at PERA-D-23-228-E) with the Board on October 19, 2023. Walsh did not know how to properly file a petition when she prepared and filed this petition. (N.T. 44-53; Union Exhibit 2).

10. On November 8, 2023, the Board sent Walsh a letter regarding the petition docketed at PERA-D-23-228-E and told her that the Board would not move forward with the petition because the petition was not accompanied by a showing of interest and did not name the Union, the bargaining unit, or the expiration date of the CBA. (Union Exhibit 3).

11. After receiving the above letter, Walsh discussed the letter with the other people who she described as wanting "out of this union." Walsh and the others decided to refile. (N.T. 54).

12. On December 13, 2023, Walsh, Annalie Barnhart, Keris Rafferty, Joseph Rossi, Michael Fiocca, Barbara Chidester, Anna Beaudry, Stacy Phillips, John Colton, Walter Meany, and Fred Mulligan (all members of the bargaining unit) filed a series of petitions. The Board declined to move forward with all these petitions because the petitions were not accompanied by a showing of interest, did not describe the bargaining unit, and did not list the expiration date of the CBA. Walsh mailed in all the petitions together as one packet. These petitions were docketed at PERA-D-23-279-E, PERA-D-23-280-E, PERA-D-23-281-E, PERA-D-23-282-E, PERA-D-23-283-E, PERA-D-23-284-E, PERA-D-23-285-E, PERA-D-23-286-E, PERA-D-23-287-E, PERA-D-23-288-E, PERA-D-23-289-E. (N.T. 56-60, 74-75; Union Exhibit 6).

13. Walsh filed another petition (her third) on January 25, 2024. This petition was docketed at PERA-D-24-7-E. This is the

currently pending petition which has been blocked by the instant unfair practice charge. This petition has more information than the others. Walsh testified she was assisted in preparing the petition by Frank (or Fred) Mulligan, a member of the bargaining unit. (N.T. 55-66; Union Exhibit 4).

14. By an Order and Notice of Hearing dated February 27, 2024, in the petition docketed at PERA-D-24-7-E, the Board scheduled a pre-hearing telephone conference with Board Representation Coordinator Dennis Bachy. This Order and Notice of hearing was sent to Walsh and counsel for the County and the Union. (Union Exhibit 4).

15. On March 19, 2024, Walsh used a County courthouse conference room to attend the pre-hearing teleconference scheduled for PERA-D-24-7-E. The meeting was held using Teams. She was accompanied by Stacy Phillips, who is a bargaining-unit member and works in the Sheriff's department. (N.T. 67-68).

16. Prior to the meeting on March 19, 2024, Walsh went to Hubbard to set up the conference room for the Teams meeting. Walsh told Hubbard she needed the conference room for a meeting about decertifying the Union. Hubbard was aware of the pre-hearing conference on March 19, 2024, regarding the decertification petition. (N.T. 30, 70-72, 101).

17. Walsh could not set up the conference room telecommunication technology by herself and needed County assistance. (N.T. 76).

18. On March 19, 2024, Walsh, using her County email address (vwalsh@susqco.com) sent an email to nineteen fellow members of the bargaining-unit. Walsh used the county email addresses for these employees. Walsh's email states:

Subject: Court Related/Union

Good afternoon,

I just want to let everyone know that the meeting today went well. There was the Representative from the [Board], the attorney for the Union, the attorney for the county and myself.

As of this time there will be a hearing that I as the petitioner will have to attend next week. It's been decided that we will do mail-in ballots because not all employees can be present. At the hearing it will be decided when the ballots will be mailed out individually to all Court related employees on the list as members in the Bargaining Unit. You will then place your vote and mail it back.

If there are any more updates, I will share them.

If you have any questions, feel free to contact Rebekah [sic] Hubbard.

Vicki M. Walsh  
Susquehanna County  
2<sup>nd</sup> Deputy Prothonotary / Clerk of Courts  
P.O. Box 218  
Montrose, PA 18801

(N.T. 68; Union Exhibit 5).

19. Walsh testified she sent the above email because she needed "to include everybody and keep them in the loop as to what's going on, whether they [want] to decertif[y] or not." (N.T. 68).

20. Walsh testified that she did not consider the above email to be a personal email. She testified she considered the contents of the email to be County business. (N.T. 69-70).

21. Walsh testified that she directed bargaining-unit members in her email to contact Hubbard with questions because, "if they had questions, and I know particular ones did, about their Union and their pension and what have you, they could contact Rebecca about the pension if they wanted to." She further testified, "they can contact Rebecca about anything they want to as far as, like, the pension or anything that has to do with the courthouse. And Rebecca set it up for us for the meeting. So if they had any questions about that, they could have asked her." (N.T. 71).

22. Hubbard was not copied originally on the above email. Walsh forwarded Hubbard the email on or about March 23, 2024. When Walsh forwarded the email to Hubbard, Walsh stated "I forgot to include you in this email." (N.T. 31-33).

23. Hubbard testified she does not know why Walsh said, "If you have any questions, feel free to contact Rebekah [sic] Hubbard." Hubbard did not tell Walsh to write that. No one contacted Hubbard with any questions. (N.T. 33).

24. County policy is that County emails should not be used for personal business. (N.T. 34).

25. Hubbard testified that the County conference room used by Walsh is available to any County employe for any purpose. (N.T. 101-103).

#### **DISCUSSION**

The Union charges that the County violated Section 1201(a)(1), (2) and (3) of the Act with its actions relating to the decertification petition.<sup>1</sup> In its Brief, the Union more specifically alleges the County improperly aided the petitioners in their pursuit of decertification by permitting Walsh to use her County-provided email account and a County conference room to further the decertification process. Union's Brief

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<sup>1</sup>There was no evidence at the hearing to support a charge under either Section 1201(a)(2) or (3). The Union did not argue in its Brief any specific violation under Section 1201(a)(2) or (3). Those charges are dismissed.

at page 5. The Union also alleges that Walsh had help from the County in completing the various decertification petitions. Union's Brief at page 6.

Unfair practice charges must be proven by substantial and legally credible evidence, and the burden of producing such evidence rests with the Complainant. St. Joseph's Hospital v. Pennsylvania Labor Relations Board, 473 Pa. 101, 373 A.2d 1069 (1977). "Substantial evidence is more than a mere scintilla and must do more than create a suspicion of the existence of the fact to be established." Shive v. Bellefonte Area Board of School Directors, 317 A.2d 311, 313 (Pa. Cmwlth. 1974), quoting PLRB v Kaufmann Department Stores, Inc., 345 Pa. 398, 29 A. 2d 90, 92 (1942).

In a charge such as this, the pertinent test is whether the employer's purported acts of assistance herein exceed the bounds of permissible cooperation and constitute unlawful aid and assistance. Minersville Area School District, 12 PPER ¶ 12301 (Proposed Decision and Order, 1981); County of York, 10 PPER ¶ 10157 (Nisi Decision and Order 1979), citing Kaiser Foundation Hospitals, 91 LRRM 1523 (1976); Armstrong County, 14 PPER ¶ 14070 (Proposed Decision and Order, 1983).

Very recently, in Teamsters Local Union 776 v. Adams County, \_\_\_ PPER \_\_\_, PERA-C-23-207-E (Final Order, 2024), the Board addressed the issue of alleged improper assistance by an employer during a decertification drive.

The facts in Adams County are similar to this matter. In Adams County, Julie Markle, a member of the court-appointed bargaining unit, collected signatures from co-workers in an attempt to decertify the union. Markle contacted the PLRB and learned that she could not file a decertification petition outside of the sixty-to-ninety day window period under Section 605(7)(ii) of PERA. Markle then sent a letter to Adams County Court Administrator Don Fennimore asking if certain bargaining-unit employees could exit the bargaining unit. In response, Adams County's Director of Human Resources, Michele Miller, issued a letter to Markle which provided publicly available information regarding PERA. Miller attached to her letter a blank copy of the PLRB petition form to clarify that employe representation did not involve the County; rather it involved representation procedures with the PLRB.

Markle then solicited co-workers' signatures for the showing of interest for a decertification petition. Markle then contacted the Board and spoke to Dennis Bachy, Board Representation Coordinator. Bachy assisted Markle in preparing a decertification petition. Markle then filed a petition for decertification. On the Petition form, Markle used her work address and her work email address.

Adams County did not provide help or assistance in any way to Markle to prepare, recommend, or file the decertification petition and no one from the County gave permission to use a work mail or email address on the petition. Adams County became aware of the filing of the decertification petition through official notification from the Board.

The Hearing Examiner in Adams County, Jack Marino, determined that Adams County did not provide material assistance or support for

the decertification petition rising to the level of interference, coercion or control in violation of Section 1201(a)(1) of PERA. Hearing Examiner Marino found Miller's response to be neutral and provide available public information and that Adams County could not be held responsible for Markle's use of her work address and email which was unknown to the County and for which the County did not grant permission.

The union in Adams County filed exceptions. Upholding the Hearing Examiner, the Board reaffirmed the law in alleged unfair practices during a decertification process and held:

[M]aterial assistance by the employer in a decertification proceeding requires more than merely providing publicly available information to violate Section 1201(a)(1) of PERA. Indeed, under the totality of circumstances, the employer's conduct must be shown to have a tendency to interfere, restrain or coerce reasonable employees in the exercise of Article IV rights under PERA. PLRB v. Montgomery County Community College, 15 PPER ¶ 15038 (Final Order, 1984), aff'd, 16 PPER ¶ 16156 (Montgomery County, 1985); See also, Temple Association of University Professionals Local 4531 v. Temple University, 37 PPER 169 (Final Order, 2006) (employer providing preprinted cards to employees to withdraw union membership). The burden is on the charging party to establish through substantial credible evidence that the employer has improperly interjected itself into a representational dispute. Service Employees International Union, Local 585 v. Brownsville Area School District, 14 PPER ¶14183 (Proposed Decision and Order, 1983).

Adams County, *supra*. Specifically, with regard to the alleged unfair practice of allowing Markle to use her work email to organize the decertification process, the Board held:

Additionally, the Teamsters argue that Ms. Markle's use of her work address and phone number on the petition for decertification constituted unlawful material assistance on the part of the County. However, the Hearing Examiner accepted the unequivocal testimony of Ms. Miller, as corroborated by Ms. Markle, that the County did not give Ms. Markle, or any employee, permission to use a work address or email on petitions filed with the Board. Moreover, to constitute material assistance in a representational dispute, the employer must have been aware of the alleged assistance it was providing. Teamsters Local Union No. 384 v. Central Bucks School District, 33 PPER ¶ 33084 (Final Order, 2002). Here, there is no evidence that the County gave Ms. Markle permission to use the County address and email, nor that the County was aware that Ms. Markle had

used her work address and email on the decertification petition when she filed it with the Board. Accordingly, as a matter of law, the County cannot be found to have materially assisted the efforts of Ms. Markle to decertify the Teamsters in violation of Section 1201(a)(1) of PERA by Ms. Markle's use of the County address and email on her Petition.

Adams County, supra.

Moving to this matter, I am bound by the precedent of Adams County and therefore find that the County in this matter did not commit unfair practices by permitting Walsh to use her County-provided email account and a County conference room to further the decertification process. The County did not provide help or assistance in any way to Walsh to prepare, recommend, or file the decertification petition.

With regard to the conference room, on March 19, 2024, Hubbard was approached by Walsh with a request to hold a meeting in a County conference room and a request for the County to "set up" the conference room's telecommunication technology for a meeting. Walsh was explicit with Hubbard that the meeting was about Walsh's petition to decertify the Union. Walsh could not on her own set up the conference room's telecommunication technology. However, at the same time, the record shows that Hubbard was merely allowing Walsh to use a conference room similar to how Hubbard allows others to use County conference rooms. While Hubbard did take the extra step of setting the room up for a teleconference, the record does not support a conclusion that this support was beyond the neutral assistance Hubbard may have provided to any party who requested such help. Moreover, I find that level of assistance Hubbard provided to Walsh with the use the conference room for a Board teleconference is similar to the level of neutral assistance an employer provides when complying with other Board matters and directives such as the posting of notices, providing employe lists, and coordinating elections. I cannot find on this record that allowing Walsh to use a conference room for a teleconference with the Board would have a tendency to interfere, restrain or coerce reasonable employes in the exercise of Article IV rights under PERA. I find, on this record, that a reasonable employe would find it unremarkable that Hubbard assisted Walsh in using a conference room and that the County did not improperly interject itself into a representational dispute.

It is also clear from the record that Walsh used County email to, in part, conduct her decertification campaign and believed that her decertification campaign was official County business. Further, Walsh referenced Hubbard as a resource for the decertification process in an email to all bargaining-unit members. The record shows that Hubbard was aware of Walsh's March 19, 2024 email on or about March 23, 2024, when Walsh forwarded the email to Hubbard.<sup>2</sup> However, the record is also

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<sup>2</sup>At the hearing, I directed the production of another email sent by Walsh to bargaining-unit members regarding decertification of the Union. The email was included in the record at Union Exhibit 7. However, there was no evidence Hubbard or any other County management

very clear that Hubbard did not *a priori* know about Walsh's use of her County email account in the decertification drive before late March, 2024. Hubbard never approved of Walsh using her County email in such a manner and Hubbard had no idea that Walsh would reference Hubbard as a resource and did not tell Walsh to put her name in the email. Thus, applying Adams County, the County cannot, as a matter of law, be held to have materially assisted Walsh in this context. To constitute material assistance in a representational dispute, the employer must have been aware of the alleged assistance it was providing. Id.

Finally, I find that the County did not help Walsh complete and file the petitions. While Walsh did seem to suddenly grow in sophistication by her third filed petition, I find that she was not assisted by County representatives. I infer from the record that she was helped by her own passionate motivation and research, her co-workers, and Board representatives.

### **CONCLUSIONS**

The Hearing Examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds:

1. Susquehanna County is a public employer within the meaning of Section 301(1) of PERA.
2. The Union is an employe organization within the meaning of Section 301(3) of PERA.
3. The Board has jurisdiction over the parties hereto.
4. Susquehanna County has not committed unfair practices in violation of Section 1201(a)(1), (2) and (3) of PERA.

### **ORDER**

In view of the foregoing and in order to effectuate the policies of the Act, the Hearing Examiner

### **HEREBY ORDERS AND DIRECTS**

that the charge is dismissed and the complaint is rescinded.

### **IT IS HEREBY FURTHER ORDERED AND DIRECTED**

that in the absence of any exceptions filed pursuant to 34 Pa. Code § 95.98(a) within twenty (20) days of the date hereof, this decision and order shall become and be absolute and final.

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representative was ever aware of this email, so I did not include it in the analysis of this matter.



**SIGNED, DATED AND MAILED** at Harrisburg, Pennsylvania, this  
twenty-fourth day of July, 2024.

**PENNSYLVANIA LABOR RELATIONS BOARD**

          /s/ Stephen A. Helmerich            
STEPHEN A. HELMERICH, Hearing Examiner