

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:)
Ernest Durant, Jr.)
and)
Carlton Butler,) PERB Case No. 98-S-02
Complainants,) Opinion No. 547
(Motion to Dismiss)
v.)
Fraternal Order of Police/) **FOR PUBLICATION**
Department of Corrections)
Labor Committee,)
Respondent.)

DECISION AND ORDER

On February 13, 1998, we issued a Decision and Order, Slip Opinion No. 537, in the above-captioned case, dismissing without prejudice the Standards of Conduct Complaint filed by the Complainants against Respondent Fraternal Order of Police/Department of Corrections Labor Committee (FOP/DOC Labor Committee). In relevant part we stated the following:

The Complainants may re-file their Complaint in the time set in our Order below. Any re-filing of the Complaint, however, must include allegations that, if proven, would support a basis for drawing the necessary relationship between the FOP Lodge office, i.e., agency trustee, and union members' rights in FOP/DOC Labor Committee that are sufficient to support a basis for distinguishing our holding in FOP/DOC Labor Committee and Dept. of Corrections and AFGE, Local 1550, [29 DCR 4611, Slip Op. No. 49, PERB Case No. 82-R-06 (1982)]

Decision and Order
PERB Case 98-S-02
Page 2

On February 26, 1998, the Complainants timely filed an Amended Complaint. FOP, once again, filed a Motion to Dismiss the Amended Complaint. No Response to the Motion was filed by the Complainants. For the reasons discussed below, we dismiss the amended Complaint with prejudice.^{1/}

The Complainants assert that FOP Chairperson Mack used FOP/DOC Labor Committee resources to unfairly facilitate the nomination, campaign and election of one FOP member seeking an office in the FOP/DOC Labor Committee's affiliate FOP Lodge #1 to the detriment of other members seeking the same office. We dismissed the original Complaint because nothing in the original Complaint suggested that the FOP Lodge office in question had a significant relationship to union members' rights with respect to the FOP Labor Committee's role as the employees collective bargaining representative. Therefore, the Complainants failed to state a cause of action under the CMPA's standards of conduct for labor organizations, i.e., D.C. Code 1-618.3.^{2/}

The Amended Complaint states that the FOP Lodge office, i.e., agency trustee, "bears a significant relationship to FOP/DOC Labor Committee members' rights because said trustee is responsible for ensuring that membership dues monies paid by Labor Committee members for membership in the Lodge #1 parent organization is properly spent for parent organization purposes, and that membership dues in the national Grand Lodge remain current." (Amend. Comp. at p.3.) The Complainants describe "parent organization purposes" as federal lobbying activities with respect

^{1/}On April 17, 1998, the Complainants filed a second amendment to their Complaint alleging an additional violation by the FOP/DOC Labor Committee. The allegations contained in the Complaint involves conduct which is distinct from that contained in the instant Complaint. On that basis, the Board's Executive Director: (1) denied the Complainants' attempt to further amend the instant amended Complaint in this manner and (2) treated the amendment as a new Complaint (PERB Case No. 98-S-06). We hereby affirm the Executive Director's decision to process this amendment as a separate Complaint.

^{2/}In our previous ruling (Opinion No. 537), we observed, based on prior findings, that the FOP Lodge served essentially a fraternal or social function for affiliate bargaining unit employee members. Consequently, the relationship between the FOP Lodge and the affiliate Labor Committee was not deemed to have a significant impact on rights of members under the CMPA. Therefore, we dismissed without prejudice in order to permit the Complainants an opportunity to address and rebut the same.

Decision and Order

PERB Case 98-S-02

Page 3

to legislation that may have an impact on the Department of Corrections facilities where bargaining unit employees work. The Complainants further state that if said membership dues are not paid, FOP/DOC Labor Committee members would be ineligible to attend the FOP Grand Lodge annual convention and to influence federal lobbying efforts.

Assuming the truth of the assertions made by the Complainants in their amendment, we find the "agency trustee's" role furthers political interests of the FOP Lodge. Moreover, the "agency trustee" facilitates members participation in this political purpose rather than members' rights to participate in the affairs of the FOP/DOC Labor Committee as their collective bargaining representative. Nothing in the Amended Complaint indicates that the relationship between the FOP/DOC Labor Committee and its affiliate Lodges has an impact upon the rights of members secured by the labor-management subchapter of the CMLA.

In view of the above, the Complainants' claim that the FOP/DOC Labor Committee unfairly facilitated the nomination, campaign and election of a FOP member to an FOP Lodge office fails to state a violation of the standards of conduct for labor organizations.

ORDER

IT IS HEREBY ORDERED THAT:

The Respondent's Motion to Dismiss the Amended Complaint, is granted with prejudice.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

April 23, 1998