

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD**

In the Matter of:)

Glenn A. Greene,)

Petitioner,)

v.)

University of the)
District of Columbia,)

and)

American Federation of State,)
County and Municipal Employees,)
District Council 20, Local 2087,)
AFL-CIO,)

Respondents.)

PERB Case No. 91-U-09
Opinion No. 350

DECISION AND ORDER

On March 18, 1993, Glenn A. Greene, (Petitioner), filed a letter (Request) with the Public Employee Relations Board (Board) requesting that the Board review the Executive Director's administrative dismissal of Petitioner's Unfair Labor Practice Complaint (Complaint) filed on December 26, 1990, against the University of the District of Columbia (UDC) and the American Federation of State, County and Municipal Employees, District Council 20, Local 2087, AFL-CIO (AFSCME).

Petitioner's Complaint was administratively dismissed by the Board's Executive Director letter dated March 3, 1993, as a result of Petitioner's "failure to cooperate in the investigation of the above-[captioned] case". The Executive Director's letter, in pertinent part stated the following:

On February 11, 1993, a pre-hearing conference was scheduled in this proceeding. Despite my letter to you advising that your request for a postponement had been denied, you failed to appear at the conference.^{1/}

^{1/} The Petitioner's failure to appear at the prehearing conference resulted in the wasteful expenditures of agency funds to
(continued...)

Moreover, I have received no communication from you regarding your failure to appear or your intentions to cooperate in any further investigation of this matter.

In view of your actions, I have no choice but to assume that you do not wish to pursue this complaint action in compliance with the Board's rules and regulations. Accordingly, by this letter, I am dismissing your complaint. You may, of course, request the Board's review of this action.

The letter to which the Executive Director's March 3, 1993 letter refers is a February 9, 1993 letter to Petitioner which in relevant part stated the following:

Reference is made to your letter of February 3, 1993, in which you have requested a postponement of the pre-hearing conference. Please be advised that, for the following reasons, your request for a postponement is denied. You have stated in your letter that a postponement was necessary because you have not yet received responses from the University of the District of Columbia to your FOIA request. As I advised you in my letter of January 29, 1993, the purpose of the pre-hearing conference is to informally address all information requests and exchange of dates relevant to this proceeding. I fail to understand how a postponement of the pre-hearing conference would be in your best legal interest since the very purpose of this meeting is to expedite the discovery process relative to this case.

A review of the record in this case reveals that the dismissal of Petitioner's Complaint occurred after several attempts by the Executive Director, over a period of 2 years, to obtain Petitioner's compliance with the minimum requirements of the Board's Rules, to enable the processing of Petitioner's Complaint. The Executive Director's efforts, as documented in her correspondence with Petitioner, reflect patience and latitude under most difficult circumstances created by Petitioner's

¹(...continued)
pay the hearing examiner and court reporter, as well as an inconvenience and, presumably, expense to the Respondent parties.

refusal to conform with our Rules.^{2/} The dismissal of

^{2/} Petitioner, pursuant to Board Rule 510.13, was provided notice on January 14, 1991 to cure deficiencies in his initial filing. On January 31, 1991, Petitioner's request for an extension of time to amend his Complaint was granted. By letter dated February 12, 1991, the Executive Director extended Petitioner's time to February 20, 1991, to cure additional deficiencies in his pleadings, e.g., Petitioner had neglected to serve his Complaint on Respondents in accordance with Board Rule 501.12. On October 30, 1991, the Board responded to an October 24, 1991 request by Petitioner for certain information pursuant to the Freedom of Information Act (FOIA). Apparently, due to persistent service problems, the Complaint and other filings by Petitioner, were not received by Respondents until November 4, 1991, when the Executive Director transmitted a copies in response to Respondents' request.

After several unsuccessful attempts to contact Petitioner by telephone, the Executive Director, by letter dated May 18, 1992, inquired about related actions in other forums and Petitioner's continued interest in pursuing the allegations contained in his Complaint. After being advised of Petitioner's continued interest, the Executive Director notified Petitioner on November 2, 1992, that the matter was being referred to a Hearing Examiner. By letter filed November 9, 1992, Petitioner advised the Board of his intention not to correspond, i.e., serve, the representatives of record for Respondents. Petitioner also requested that the Executive Director issue subpoenas for no less than 30 witnesses to appear at any scheduled hearing in this matter. Due to the parties' conflicting schedules, a mutually acceptable hearing date was not selected among those initially proposed. In the interest of determining an acceptable hearing date, as well as facilitating and expediting the hearing, the Executive Director, by letter dated November 17, 1992, scheduled a pre-hearing conference for February 11, 1993, pursuant to Board Rule 550.1.

In the interim, Petitioner served the Board and agents of Respondents -- not their representatives -- with a series of FOIA requests and questions. On January 29, 1993, the Executive Director responded to Petitioner's FOIA request directed to the Board. The Executive Director also advised Petitioner that Board Rule 501.12 required that he serve Respondents' representatives with all pleadings and correspondence filed with the Board. The Executive Director reminded Petitioner of the scheduled February 11, 1993 pre-hearing conference and informed Petitioner that "[t]he purpose of this conference, in part, is to discuss the orderly exchange of information and scheduling of witnesses."

(continued...)

Petitioner's Complaint came only after Petitioner had exhibited an utter disregard for the Board's Rules, as well as the Executive Director's authority to process and investigate all complaints in accordance with applicable Rules.

Notwithstanding being so advised of the basis for dismissing his Complaint, Petitioner, in his Request, advises the Board of his intent to continue ignoring Board Rules governing these proceedings. Specifically, Petitioner states that he has "no intention of appearing before the said [B]oard unless [he receives] the answers to questions [he] asked the University of the District of Columbia in [his] January 8, 1993 letter that [he] requested under the District of Columbia Freedom of Information Act... ." Petitioner's declared intent to continue to disregard the Board's processes, as prescribed under Board Rules 520.8, 520.9, 520.10 and 550.13, as well as the delegated authority of the Executive Director to process unfair labor practice complaints pursuant to Board Rules 550.1, 550.5, leaves us with no other alternative but to deny Petitioner's request for review and to affirm the administrative dismissal of his case by the Executive Director. The Petitioner's unwillingness to adhere to the Rules of this forum, and not any action by the Executive Director, has frustrated Petitioner's immediate objective, i.e., ascertaining answers from Respondents UDC and AFSCME to questions that may be relevant to this proceeding, and, consequently, the ultimate objective sought by this action, i.e., a determination of the claims contained in the Complaint.

ORDER

IT IS HEREBY ORDERED THAT:

²(...continued)

By letter dated February 3, 1993, Petitioner advised the Executive Director of his intent not to appear "unless and until" Respondents provided the answers to his previously-sent "questions/interrogatories." Petitioner also continued to insist, notwithstanding the Executive Director's instructions to the contrary, that he would not correspond with Respondents' representatives during the processing of the Complaint. The Executive Director denied Petitioner's request to reschedule the conference for the reasons Petitioner presented. Petitioner, nevertheless, failed to appear at the conference. Petitioner's cumulative derogation of the Executive Director's authority and Board Rules resulted in the dismissal of Petitioner's Complaint as discussed in the text.

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Petitioner's Request for Review of the Executive Director's
Administrative Dismissal of Petitioner's Complaint is Denied.

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

April 23, 1993