

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

MILWAUKEE COUNTY CORRECTION OFFICERS'
ASSOCIATION

Involving Certain Employees of

MILWAUKEE COUNTY

Case XXXVIII

No. 13653 ME-545

Decision No. 10053

ORDER OF DISMISSAL

Milwaukee County Correction Officers' Association having on March 31, 1970, filed a petition with the Wisconsin Employment Relations Commission requesting that an election be conducted, pursuant to Section 111.70, among all Correction Officers employed in the House of Correction of Milwaukee County, Milwaukee, Wisconsin, to determine what representation, if any, such employees desired for the purposes of collective bargaining; and hearing in the matter having been conducted at Milwaukee, Wisconsin, on June 18, 1970, before Allan J. Harrison, Hearing Officer; and during the course of the hearing Milwaukee District Council 48, AFSCME, AFL-CIO, (and its Local 1055W) having been permitted to intervene in the proceeding on its claim that it was the certified bargaining representative of the employees involved in the petition; and following the close of the hearing, and on July 16, 1970, the Petitioner, by its Counsel, having, in writing, requested the Commission to reopen the hearing in order to permit the Petitioner to amend the description of the claimed appropriate bargaining unit to include all otherwise eligible employees employed in the House of Correction; and on July 23 and July 30, 1970, Counsel for the Intervenor and the Municipal Employer, respectively, having in writing opposed the reopening of the hearing; and the Commission having reviewed the evidence, the arguments of Counsel, the motion of the Petitioner to reopen the hearing, and the statements in opposition to such motion, and being fully advised in the premises, makes and issues the following

ORDER

IT IS ORDERED that the motion to reopen hearing in the above entitled matter be, and the same hereby is, denied.

IT IS FURTHER ORDERED that the petition filed herein be dismissed for the reason that the unit claimed to be appropriate for the purposes of collective bargaining pursuant to Section 111.70, Wisconsin Statutes, cannot constitute an appropriate collective bargaining unit within the meaning of Sections 111.70(4)(d), 111.02(6) and 111.05, Wisconsin Statutes.

Given under our hands and seal at the
City of Madison, Wisconsin, this 2nd
day of December, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner

No. 10053

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:

MEMORANDUM ACCOMPANYING ORDER OF DISMISSAL

On March 31, 1970, the Petitioner filed a petition requesting an election among all Correction Officers employed in the House of Correction of Milwaukee County. Hearing on the petition was originally set for April 29, 1970. Subsequently, the hearing was postponed because of a conflict in dates of various Counsel and the matter was not heard until June 18, 1970. During the course of the hearing Milwaukee District Council 48, AFSCME, AFL-CIO, (and its Local 1055W) was permitted to intervene on the basis that it was the certified bargaining representative for a county-wide unit (with some exceptions) and included among the employes in the county-wide unit were all employes of the House of Correction. During the course of the hearing evidence was adduced with respect to the qualifications and duties of the Correction Officers I and II who are employed in the House of Correction, along with other employes which include cooks, gardeners and mechanics as well as certain craft employes. From the evidence it is clear that those individuals occupying the classifications of Correction Officers I and II are neither employed in a separate department or division nor are they craft or professional employes. Therefore, the Correction Officers I and II cannot, pursuant to Section 111.70(4)(d) and Sections 111.02(6) and 111.05, Wisconsin Statutes, be given the opportunity to determine for themselves whether they desire to constitute a unit separate and apart from the remaining employes of the House of Correction or of the County.


Following the close of the hearing and on July 16, 1970, almost four months following the filing of the petition, the Petitioner in writing requested the Commission to reopen the hearing and permit the Petitioner the opportunity to present evidence to establish that the House of Correction constituted a separate department or division of Milwaukee County. Both Counsel for the County and the intervening Union opposed the reopening of the hearing, primarily arguing that the reopening of the hearing at such late date would disrupt negotiations between the County and the intervening Union with respect to all other employes of the House of Correction, and the remaining employes in the county-wide unit.

Under such circumstances we agree that the request of the Petitioner to reopen the hearing was untimely made, and we are, therefore, denying Petitioner's motion to reopen the hearing, and, further, we are dismissing the petition since the unit claimed to be appropriate cannot in any sense be an appropriate collective bargaining unit within the meaning of the aforementioned statutory provisions.

Dated at Madison, Wisconsin, this 2nd day of December, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


J. S. Rice II, Commissioner