

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :  
SHEBOYGAN COUNTY COURTHOUSE EMPLOYEES, : Case XXXVII  
LOCAL 1749C, AFSCME, AFL-CIO : No. 24734 ME-1687  
Involving Certain Employes of : Decision No. 17598  
SHEBOYGAN COUNTY :  
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Appearances:

Ms. Helen M. Isferding, District Representative, appearing on behalf of the Petitioner.  
Mr. Alexander Hopp, Corporation Counsel, appearing on behalf of the Municipal Employer.

FINDINGS OF FACT, CONCLUSION OF LAW AND  
ORDER DISMISSING PETITION FOR UNIT CLARIFICATION

Sheboygan County Courthouse Employees, Local 1749C, AFSCME, AFL-CIO having filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to clarify a previously certified <sup>1</sup>/<sub>1</sub> bargaining unit consisting of certain employes in the employ of Sheboygan County; and hearing on said petition having been held on October 11, 1979, at Sheboygan, Wisconsin, before Examiner Christopher Honeyman; and the Commission, having considered the evidence and arguments of the parties, and being fully advised in the premises, hereby issues the following Findings of Fact, Conclusion of Law and Order Dismissing Petition for Unit Clarification.

FINDINGS OF FACT

1. That Sheboygan County Courthouse Employees, Local 1749C, AFSCME, AFL-CIO, hereinafter referred to as the Union, is a labor organization representing employes for the purposes of collective bargaining and has its offices at 2323 North 29th Street, Sheboygan, Wisconsin.
2. That Sheboygan County, hereinafter referred to as the County, has its primary offices at the Sheboygan County Courthouse, Sheboygan, Wisconsin.
3. That following an election conducted by it, the Wisconsin Employment Relations Commission, hereinafter referred to as the Commission, on January 10, 1968, certified the Union as the exclusive collective bargaining representative of "all regular full-time and regular part-time personnel employed in the Courthouse by Sheboygan County, Wisconsin, excluding elected public officials and all employes in the Institutions and Highway and Sheriff's Departments, Guidance Center, professional employes, and supervisors, and excluding clerical employes employed in the Welfare Department"; that sometime thereafter the Union and the County, without the Commission's participation,

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<sup>1</sup>/<sub>1</sub> Decision No. 8256-D, 1/68.

voluntarily amended the complement of the certified collective bargaining unit and that the collective bargaining agreement between the parties, existing from January 1, 1978 through December 31, 1979, describes the amended unit as follows:

ARTICLE I  
RECOGNITION

The Employer recognizes the Union as the exclusive bargaining agent for all regular full-time and part-time personnel employed by Sheboygan County in the Courthouse and in auxiliary departments and buildings (but specifically excluding therefrom all elected public officials, supervisors, professional employees of the Welfare Department, all employees of the Unified Board, all deputized employees of the Sheriff's Department, all nurses, all confidential employees, the Welfare Department Office Supervisor and the Welfare Department Case Aide Supervisor) with regard to negotiations with the Employer on questions of wages, hours and conditions of employment.

4. That in the instant proceeding the Union seeks to accrete, without an election, to the existing collective bargaining unit, individuals in the employ of the Sheboygan County Mental Health, Mental Retardation, Alcoholism and Drug Abuse Board, hereinafter referred to as the Unified Board, occupying the positions of Secretary III, II and I, and Clerk-Typist I; and that the County opposes such accretion, contending that the Unified Board is a municipal employer separate and distinct from the County and that, therefore, said classifications cannot be included in a collective bargaining unit of County employees, and that even if the occupants of the classifications were County employees, said classifications should not be accreted to the existing unit without an election, and further, there exists no community of interest between the classifications in issue and those in the existing unit.

5. That in the fall of 1973 the Unified Board was established by the Board of Supervisors of the County, pursuant to Section 51.42, Wis. Stats.

Upon the basis of the above and foregoing Findings of Fact, the Commission makes the following

CONCLUSION OF LAW

That the Wisconsin Employment Relations Commission, in order to carry out the policies of the Municipal Employment Relations Act (Section 111.70, Wis. Stats.) and especially the provisions therein relating to the determination of appropriate bargaining units, will not, in a unit clarification proceeding, accrete positions to an existing collective bargaining unit where the parties involved previously voluntarily specifically excluded the positions in issue from said existing unit.

Upon the basis of the above and foregoing Findings of Fact and Conclusion of Law, the Commission makes the following

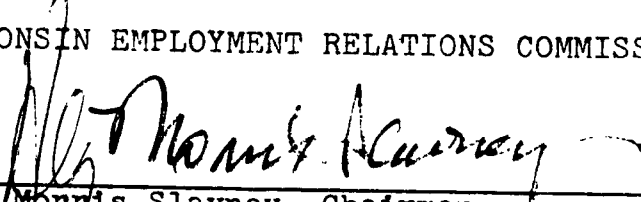
ORDER

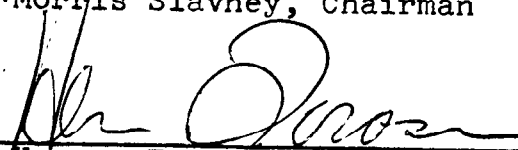
That the petition filed herein be, and the same hereby is, dismissed.


Given under our hands and seal at the City of Madison, Wisconsin, this 15th day of February, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Herman Torosian, Commissioner

  
Gary L. Covelli, Commissioner

MEMORANDUM ACCOMPANYING  
FINDINGS OF FACT, CONCLUSION OF LAW AND  
ORDER DISMISSING PETITION FOR UNIT CLARIFICATION

As indicated in the Findings of Fact, the County opposes the inclusion of the clerical positions in the employ of the Unified Board in a bargaining unit generally consisting of clerical employees employed by the County contending that (a) the positions involved are employed by a municipal employer separate and distinct from the County; (b) if they are found to be employees of the County, the classifications in issue should not be accreted to the existing unit without an election; and (c) there exists no community of interest between the classifications in issue and those in the existing unit. Since the Union and the County have voluntarily specifically excluded the positions in issue herein from the existing collective bargaining unit, the Commission deems it unnecessary to determine whether, in fact, the positions in issue are employed by a "separate municipal employer" other than the County. It is a well-established policy of the Commission that it will not accrete, without an election, positions to an existing bargaining unit where the parties involved have previously voluntarily excluded said positions from said bargaining unit. <sup>2/</sup> During the course of the hearing herein the Union indicated that it did not desire to proceed to an election in order to accrete the positions involved to the existing bargaining unit. Therefore, we have dismissed the petition filed herein.

Dated at Madison, Wisconsin, this 15th day of February, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By *Morris Slavney*  
Morris Slavney, Chairman

*Herman Torosian*  
Herman Torosian, Commissioner

*Gary L. Covelli*  
Gary L. Covelli, Commissioner

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<sup>2/</sup> Amery Joint School District No. 5 (15793-A and 15794-A), 4/78.  
See also Fox Valley Technical Institute (13204), 9/74; City of  
Cudahy (12997), 9/74; Cumberland Community Schools (15214), 1/78.