

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ROCK COUNTY (SHERIFF'S DEPARTMENT)

Case CXXXVI
No. 27879 ME-1994
Decision No. 18665-A

The Wisconsin Employment Relations Commission having on April 15, 1981 received a Stipulation for Election executed by Rock County and the Rock County Deputy Sheriff's Association wherein they requested an election among all non-supervisory sworn employees of the Rock County Sheriff's Department, including Deputy Sheriffs, Detectives below the rank of Lieutenant, Transportation Officer, and Process Officers, but excluding all other employees; and thereafter, on April 24, 1981 General Drivers, Dairy Employees and Helpers Local 579 moved to intervene in said proceeding; 1/ and the Commission having on May 8, 1981 issued its Direction of Election herein wherein it noted that it had allowed Local 579 to intervene in this proceeding and have its name placed on the ballot and also that the bargaining unit involved included, inter alia, Special Investigators; and thereafter, on May 13, 1981, Counsel for the Association having advised the Commission that the Association objected to the inclusion of Local 579 on the ballot and that the Association also objected to the inclusion of the Special Investigators in the bargaining unit; and thereafter the Commission having advised the Association, by letters dated May 14, 1981 and June 3, 1981, that it was withholding further action in the matter pending resolution or withdrawal of said objections; and the Association having, since June 3, 1981, failed to either withdraw said objections or request a hearing on same; and the Commission having reviewed the matter and being satisfied that said objections are without merit and that no evidentiary hearing is required;

NOW THEREFORE it is

ORDERED

1. That the Association's objections to the inclusion of Local 579 on the ballot and the inclusion of Special Investigators in the bargaining unit of non-supervisory law enforcement personnel herein be and the same hereby are denied.

1/ At the time of said motion the Commission had pending a petition for election filed by Local 579 wherein it sought to represent a group of three Special Investigators working in the office of the District Attorney of the County. (Case CXIX, No. 26999, ME-1932.) Rock County, the Association and Local 579 had agreed that if the election among the law enforcement personnel of the Sheriff's Department were conducted prior to the determination by the Commission that the Special Investigators should be included in the same unit, then the Special Investigators should be allowed to vote in that election by challenged ballot. On May 5, 1981 the Commission issued its decision in that case (Decision No. 18658) wherein it found that the investigators properly belong in the unit herein because they have the power of arrest.

2. That the Commission's Direction of Election previously issued herein be and the same hereby is amended to indicate that the election shall be conducted within thirty (30) days from the date of this order.

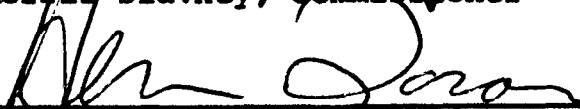
Given under our hands and seal at the City of Madison, Wisconsin, this 29th day of July, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Gary L. Covelli, Chairman


Morris Slavney, Commissioner


Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING ORDER DENYING OBJECTIONS
AND AMENDING DIRECTION OF ELECTION

As noted in the prefatory paragraph to our order herein, Counsel for Local 579 sent the Commission a letter dated April 23, 1981, a copy of which was sent to the Association's President, indicating that Local 579 desired to intervene in the representation election. In that letter Local 579 indicated that it had no objection to the terms of the stipulation entered into between Rock County and the Association or to the proposal that the Special Investigators be allowed to vote by challenged ballot. (Since the Commission subsequently dismissed Local 579's petition for an election involving the Special Investigators on the basis that they are law enforcement personnel and do not properly constitute a separate bargaining unit 2/ the latter agreement is no longer necessary.)

It was not until after the Commission had dismissed Local 579's petition involving the Special Investigators and directed the election herein that the Association raised any objection to the inclusion of Local 579 on the ballot or the inclusion of the Special Investigators in the bargaining unit.

In its objections dated May 12, 1981 and received May 13, 1981 the Association contends:

1. Local 579 should not be on the ballot since the Association does not believe that Special Investigators or any "member of the Association" has requested that Local 579 be placed on the ballot.
2. The Special Investigators should not be included in the bargaining unit since they have a different line of supervision, are supervised by the District Attorney and not the Sheriff, and are not subject to the same rules of discipline or training as deputies.

In a letter dated May 14, 1981 we advised Counsel for the Association that the Commission had already determined that the Special Investigators did not constitute a separate bargaining unit and properly belonged in a bargaining unit of all non supervisory law enforcement personnel employed by the County and that unless the Association withdrew its objection to the placement of Local 579 on the ballot the Commission would "have no choice, but to set aside the Direction and set the matter for hearing." On June 3, 1981 a similar letter was sent to Counsel for the Association requesting that it withdraw the objections before any further action was taken in this proceeding and a related election proceeding involving the supervisory law enforcement personnel in Rock County. 3/ To date we have received no further response from the Association either withdrawing its objections or requesting an evidentiary hearing.

Upon reflection the Commission is of the opinion that it is not necessary to hold an evidentiary hearing on the objections interposed by the Association since there is no factual dispute raised by said objections.

As pointed out by Counsel Local 579, the Association was sent notices of the hearing in the case involving the Special Investigators and did not appear or otherwise take a position in that matter. All parties were aware of the fact that the Commission might conclude that the Special Investigators properly belonged in a County wide unit of law enforcement personnel as evidenced by the

2/ Supra note 1.

3/ Case CXXXV, No. 27880, ME-1995.

agreement to allow such individuals to vote by challenged ballot in the event that the election was held before the decision in that case. Therefore, we view the Association's objections in this regard to be without merit for the reasons set out in that decision.

With regard to the Intervention of Local 579 in the instant election proceeding, the objections stated do not constitute a proper basis for excluding said organization from the ballot. Even if it is assumed that none of the Special Invesitgators or "members of the Association" [sic] have requested that Local 579 be placed on the ballot, Local 579 is entitled to have its name placed on the ballot since it sought to represent the Special Investigators in a separate unit, and since said employees have been included in the unit with Sheriff Department law enforcement personnel.


Dated at Madison, Wisconsin this 29th day of July, 1981.

WISCONSIN EMPLOYMENT RELATIONS DEPARTMENT

By


Gary L. Covelli, Chairman


Morris Slavney, Commissioner


Herman Torosian, Commissioner