

In the Matter of the Petition of
DANE COUNTY
Involving Certain Employees of
DANE COUNTY
(SHERIFF'S DEPARTMENT)

Appearances:

The Wisconsin Employment Relations Commission, having on February 15, 1984 issued Findings of Fact, Conclusions of Law and Order Clarifying Bargaining Unit in the above-entitled matter wherein it concluded inter alia that the occupants of certain Sergeant positions in the Dane County Sheriff's Department were supervisors within the meaning of Sec. 111.70(1)(o), Stats., and therefore that their positions should be excluded from the non-supervisory law enforcement bargaining unit represented by the Law Enforcement Employee Relations Division/Wisconsin Professional Police Association, herein LEER/WPPA; and LEER/WPPA having on March 6, 1984 filed a petition for rehearing pursuant to Sec. 227.12, Stats., asserting that the Commission's decision was premised upon material errors of fact and that new evidence exists regarding one of the bases upon which the Commission's decision was premised; and Dane County having on March 23, 1984 submitted a statement in opposition to the petition for rehearing; and the Commission having considered the matter and concluded that the petition should be denied;

By

Herman Torosian, Chairman

Gary L. Covelli, Commissioner

Marshall L. Gratz, Commissioner

1/ (Continued)

Pursuant to Sec. 227.11(2), Stats., the Commission hereby notifies the parties that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.16(1)(a), Stats.

227.16 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.15 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.12, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.11. If a rehearing is requested under s. 227.12, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

MEMORANDUM ACCOMPANYING
ORDER DENYING PETITION FOR REHEARING

We have denied the Association's petition for rehearing because we are satisfied that our original decision has not been shown to contain material errors of law or fact and because we are further satisfied that the Association has not presented "new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence." Sec. 227.12(3), Stats.

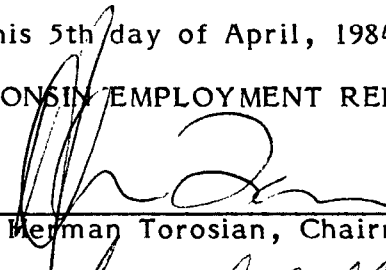
We also wish to emphasize that we reached that outcome by application of established Commission caselaw standards, and that the case does not, in our view, herald a shift in Commission decisional standards in determining supervisor status in law enforcement units.


While the case was a close one and difficult to decide, we are not persuaded that the outcome we reached is erroneous.

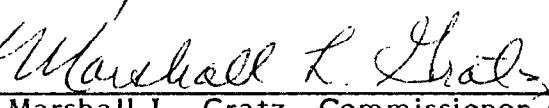
Dated at Madison, Wisconsin this 5th day of April, 1984.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Chairman


Gary L. Covelli, Commissioner


Marshall L. Gratz, Commissioner