

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LABOR ASSOCIATION OF WISCONSIN, INC.	:	
FOR AND ON BEHALF OF THE OZAUKEE	:	
DEPUTY SHERIFF'S ASSOCIATION,	:	
LOCAL 115,	:	Case 39
	:	No. 51316 MP-2918
Complainant,	:	Decision No. 28170-A
	:	
vs.	:	
	:	
OZAUKEE COUNTY,	:	
	:	
Respondent.	:	
	:	

ORDER DENYING MOTION TO HOLD IN ABEYANCE

On July 19, 1994 the above-named Complainant filed a complaint with the Wisconsin Employment Relations Commission alleging that Ozaukee County had violated Sec. 111.70(3)(a)(1), (3)(4) and (5), Stats., by refusing to submit a grievance to arbitration. On August 22, 1994 Respondent filed a motion to hold the proceeding in abeyance pending disposition of another matter in Ozaukee County Circuit Court. Complainant replied to the motion by letter received on September 8, 1994. On September 23, 1994 the Commission formally appointed the undersigned as Examiner in this matter. The Examiner, having considered the motion and reply, makes and files the following

ORDER

That the Respondent's Motion to Hold in Abeyance be, and the same hereby is, denied at this time.

Dated at Madison, Wisconsin this 23rd day of September, 1993.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Christopher Honeyman /s/
Christopher Honeyman, Examiner

Ozaukee County

MEMORANDUM ACCOMPANYING ORDER DENYING
MOTION TO HOLD IN ABEYANCE

The Complaint alleges that Respondent refused to submit a grievance, concerning the one-day disciplinary suspension of officer John Passet, to arbitration. Respondent argues that grievance arbitration is not available to the Union in this matter, that the sole and exclusive remedy available is a statutory one arising under Sec. 59.21(8)(b), Stats., and that the Complainant and Respondent are already engaged in litigating this issue in Ozaukee County Circuit Court in a parallel proceeding. Respondent argues that the Examiner should defer further processing of this matter pending the Court's determination, citing inter alia Waukesha County. 1/

I find that it is not clear from the facts before me whether this matter is so related to the proceeding now before the Court that the Court's ruling would inevitably dispose of the issue before me. That proceeding involves the discharge of a different employe, in which the County did participate in an arbitration proceeding but now seeks vacation of the award. Waukesha County, by contrast, involved the same factual issues, raised in two forums at the same time. I note also that in the Monona 2/ decision also cited by Respondent, the Examiner declined to hold the proceeding in abeyance partly because identity of the facts and issues involved was not established.

Respondent is not precluded by this Order from raising the same argument following an evidentiary hearing.

Dated at Madison, Wisconsin this 23rd day of September, 1994.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Christopher Honeyman /s/
Christopher Honeyman, Examiner

1/ Dec. No. 24110-B (WERC, 3/88).

2/ Monona Grove Joint School District, Dec. No. 11614-A (Gratz, 8/73).