

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

JESUS BARBARY, Complainant

and

BLACKHAWK TECHNICAL COLLEGE, Respondent

Case 57
No. 52192
MP-2985

Decision No. 28448-C

JESUS BARBARY, Complainant

and

**BLACKHAWK TECHNICAL COLLEGE/PARAPROFESSIONAL TECHNICAL
COUNCIL, WISCONSIN EDUCATION ASSOCIATION COUNCIL AND
NATIONAL EDUCATION ASSOCIATION**, Respondents

Case 58
No. 52193
MP-2986

Decision No. 28449-C

APPEARANCES

Mr. Jesus Barbary, PO Box 485, Beloit, Wisconsin, 53512-0485, appearing pro se.

Ms. Mary Pitassi, Associate Counsel, Wisconsin Education Association Council, PO Box 8003, Madison, Wisconsin, 53708-8003, appearing on behalf of the Respondents in Case 58.

Godfrey & Kahn, S.C., Attorneys at Law, by **Mr. Jon E. Anderson**, 131 West Wilson Street, Suite 202, PO Box 1110, Madison, Wisconsin, 53701-1110, appearing on behalf of Respondent in Case 57.

28448-C
28449-C

**ORDER AFFIRMING EXAMINER'S FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

On July 24, 1997, Examiner Daniel J. Nielsen issued Findings of Fact, Conclusions of Law and Order with Accompanying Memorandum in the above matter wherein he concluded no violations of the Municipal Employment Relations Act had been committed by any of the named Respondents. He therefore dismissed the complaints.

On August 11, 1997, Complainant filed a petition with the Wisconsin Employment Relations Commission seeking review of the Examiner's decision pursuant to Secs. 111.70(4)(a) and 111.07(5), Stats.

The parties thereafter filed written argument in support of and opposition to the petition, the last of which was received September 19, 1997.

Having considered the matter and being fully advised in the premises, the Commission makes and issues the following

ORDER

The Examiner's Findings of Fact, Conclusions of Law and Order are affirmed.

Given under our hands and seal at the City of Madison, Wisconsin, this 3rd day of December 1997.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/
James R. Meier, Chairperson

A. Henry Hempe /s/
Henry Hempe, Commissioner

Paul A. Hahn /s/
Paul A. Hahn, Commissioner

BLACKHAWK TECHNICAL COLLEGE

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

At the conclusion of his decision, the Examiner summarized the essence of the complaints before him and his disposition thereof as follows

In summary, while he was almost continuously engaged in protected activity over his tenure with the College, there is no evidence that any of the adverse employment decisions made by the College were motivated by hostility to his activities. Neither is there any basis for a reasonable person to have felt restrained or coerced in their exercise of protected rights by the actions taken by the College. As for the representation afforded the Complainant by the Association and WEAC, the record reflects that it has been vigorous and that where a grievance or other claim has not been pursued to the Complainant's liking, the labor organizations' decisions have been carefully considered and reasonable. Thus, having heard the Complainant's entire case over the course of ten days, the Examiner concludes that the Complainant has failed to prove that he is entitled to any relief. Accordingly, his complaints of prohibited practices have been dismissed in their entirety.

In his petition for review and supporting argument, Complainant contends the Examiner's decision:

... displays his bias against Petitioner, erroneous judgment, hypocrisy and reckless disregard for the truth in these above mentioned cases.

From our review of the matter, it is clear Complainant's above quoted contentions have absolutely no merit. Examiner Nielsen gave Complainant every reasonable opportunity to prove his case and demonstrated exceptional skill and patience when doing so. His conduct and his decision reflect the Examiner's commitment to fundamental fairness to all parties as well as a thoughtful review of a very large record. We commend him for the highly professional quality of his conduct and of his decision and have affirmed his decision in all respects. Because his decision fully, fairly, and correctly responds to all arguments made on review by Complainant, we will not comment further.

Given under our hands and seal at the City of Madison, Wisconsin, this 3rd day of December 1997.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/
James R. Meier, Chairperson

A. Henry Hempe /s/
Henry Hempe, Commissioner

Paul A. Hahn /s/
Paul A. Hahn, Commissioner

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