

STATE OF WISCONSIN

PERSONNEL COMMISSION

* * * * *
 ERIC JONES,
 Appellant,
 v.
 President, UNIVERSITY OF
 WISCONSIN SYSTEM (Madison
 Extension),
 Respondent.
 Case No. 87-0102-PC
 * * * * *

ORDER

This matter involves a challenge to respondent's decision not to hire appellant for an Educational Services Intern - Staff Benefits Counselor position.

Mr. Jones originally filed a charge of discrimination on the basis of race and national origin, which was received by the Commission on July 3, 1987, and given No. 87-0081-PC-ER. Mr. Jones requested by letter of July 15, 1987, that this discrimination charge be processed by the United States Equal Employment Opportunities Commission, and this Commission accordingly transferred the charge to that agency.

Mr. Jones also requested that his charge be processed as a civil service appeal, and accordingly this file (No. 87-0102-PC) was opened, and has been processed as an appeal under §230.44(1)(d), Wis. Statutes:

A personnel action after certification which is related to the hiring process in the classified service and which is alleged to be illegal or an abuse of discretion may be appealed to the Commission.

A prehearing conference was held on August 25, 1987, at which time the parties agreed to a statement of issue for hearing and a hearing date of

November 5, 1987, and both parties named witnesses for the hearing. On September 9, 1987, the Commission entered an order designating Commissioner Murphy as hearing examiner.

On November 4, 1987, the Commission received a memorandum from Mr. Jones which stated:

RE: November 5, 1987, appearance before Personnel Commission

This is to advise you that I will not be attending the November 5, 1987, meeting of the Personnel Commission in the matter of Jones Vs. UW-Madison (Extension). The Commission is therefore free to take whatever action it may deem reasonable.

It is still my position that I was discriminated against when I was denied employment by U.W.-Madison (Extension) for the Staff Benefits Counselor position. I also believe that a careful evaluation of the record will show that I am more qualified for the above position than the person hired.

If you have any questions, please feel free to contact me. Thank you very much.

Mr. Murphy then sent the following letter dated November 5, 1987, to Mr. Jones:

Your memorandum... has been interpreted to mean you have withdrawn your appeal and ceased prosecution of Case No. 87-0102-PC. If this is not the correct understanding of your communication, please inform the Commission of the misunderstanding within 20 days of the date of this letter or it will proceed to dismiss your appeal in accordance with your request.

Mr. Jones responded with a memorandum received November 18, 1987, which commented at some length on a proposed exhibit that respondent had submitted before the hearing. The memorandum concluded as follows:

In light of the foregoing, Mr. Harold should be asked to present to the Commission, a clear explanation of the juggling of the numbers as evidenced by Exhibit #6.

Finally, my memorandum of October 30, 1987, is not a withdrawal of my case. I therefore expect that the Commission will not seek an easy way out but, instead pursue this claim vigorously to a successful end.

Thank you very much.

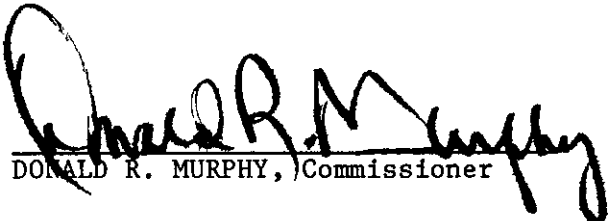
The Commission has no authority to prosecute a case on behalf of a party or on its own behalf but can only make a decision on a case after both sides have had the opportunity to present evidence in a hearing conducted pursuant to the Administrative Procedure Act, Chapter 227, Wis. Statutes. The Commission can only conclude based on the correspondence from Mr. Jones that this case must be dismissed for lack of prosecution. However, it should be noted that this dismissal of this civil service appeal does not affect the charge of discrimination, which, as previously was noted, was referred for processing by the EEOC.

ORDER

This appeal is dismissed for lack of prosecution.

Dated: December 3, 1987 STATE PERSONNEL COMMISSION


DENNIS P. MCGILLIGAN, Chairperson


DONALD R. MURPHY, Commissioner


LAURIE R. MCCALLUM, Commissioner

AJT:jmf
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