

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

STATE - FISH AND WILDLIFE)	
)	
Employer,)	
-----)	
In the matter the petition of:)	
)	
LESLIE SIKORA)	CASE 20024-N-05-0049
)	
Concerning the union security)	DECISION 9511 - PSRA
obligations to:)	
)	FINDINGS OF FACT,
WASHINGTON PUBLIC EMPLOYEES)	CONCLUSIONS OF LAW,
ASSOCIATION)	AND ORDER
_____)	

The employer did not appear.

Leslie Sikora appeared on her own behalf.

Lou Baker, Legal service coordinator, for the union.

On December 20, 2005, Leslie Sikora filed a petition seeking a ruling concerning her obligations under the union security provisions of a collective bargaining agreement between her employer, the state of Washington, and the Washington Public Employees Association, UFCW Local 365 (union). Sikora belongs to a bargaining unit at the Washington State Department of Fish and Wildlife (agency). Commission staff reviewed Sikora's petition and issued a preliminary ruling on January 31, 2006, which stated that a cause of action exists concerning Sikora's assertion of a right of non-association based on personal religious beliefs. Examiner Carlos R. Carrión-Crespo held a hearing on May 19, 2006. The parties submitted post-hearing briefs. The union does not dispute

Sikora's choice of the program that her dues would benefit, in case Sikora is eligible to exercise the right of self-association.

ISSUE

Is Sikora eligible to exercise the right of non-association based on her personal religious beliefs?

On the basis of the record presented as a whole, the Examiner holds that Sikora did not meet her burden of proof to factually show that she has a bona fide religious objection to union membership.

APPLICABLE LEGAL PRINCIPLES

The Right of Non-association

RCW 41.80.100(2) regulates disputes about the union security obligations of an employee who asserts a religious-based right of non-association. Following its mission to administer collective bargaining laws uniformly, the Commission administers Chapter 41.80 RCW under existing rules and precedents, unless the statute requires a different treatment. *University of Washington*, Decision 9410 (PSRA, August 15, 2006). Therefore, the Examiner must interpret the statute to allow a person "to claim the union dues exemption based on either (1) bona fide religious tenets, or (2) teachings of a church or religious body of which the person is a member." *Grant v. Spellman*, 99 Wash.2d 815, 819 (1983). However, "[w]hether an individual is to be granted an . . . exemption from a union security agreement is dependent upon proof of the bona fide religious beliefs of the individual or the religious group. The exemption is not automatic." *Grant v. Spellman*, 99 Wash.2d at 820.

If an employee claims the right of non-association based on personal religious beliefs, the employee has the burden to make a factual showing, through testimony of witnesses and documentary evidence, that those beliefs are legitimate. WAC 391-95-230(2), which codifies the ruling in *Grant v. Spellman*, 99 Wash.2d 815, requires that the employee show that he or she has a bona fide religious objection to union membership, and that the religious nature of the objection is genuine and in good faith. The Examiner cannot inquire into the reasonableness or plausibility of the religious beliefs claimed by an employee, but only applies an objective standard to determine, as a question of fact, whether the belief is religious, as compared with philosophical, sociological, ethical, or moral. *Clover Park Technical College*, Decision 4070-A (CCOL, 1993). The Examiner will only order a union to grant the right of non-association where the employee specifically articulates a religious belief, and demonstrates a nexus between that belief and opposition to unions. *Clover Park Technical College*, Decision 4070-A.

ANALYSIS

Sikora's Claim

On June 27, 2005, Sikora signed a WPEA "membership/fair share" application. The application included a "Non-association Fee" option. It states: "My religious tenets preclude me from becoming a member of WPEA. Fees will be given to a non-religious charity agreed to by WPEA and myself." As a result, the union sent her a form titled "Non-Association Member Status Application", which included several questions to assist the union in evaluating her first application. Sikora signed the application, and attached a three-page statement which answered the questions. She stated that the reason she chose not to join the union was "religious." She

did not claim to adhere to any religious body¹ but asserted that as her own god, she has the responsibility to not support the things she does not believe in. Her main objections were that unions in the state are divisive and that the Department of Personnel served the employees' interests adequately. Sikora also stated that employees should not be discharged for not supporting a union and that she had never believed unions would be an asset in state employment because they would be an additional bureaucracy to argue with.

In the application, Sikora held that mandatory union association empowered some employees to the detriment of others. In her testimony, she clarified that she would lose power if she was forced to be associated with the union. WPEA in particular, according to her application, had redesigned the bargaining units and redefined supervisors in a manner that she disagreed with to obtain a vote favorable to the union; and established a contract that obstructed her professional and personal goals, because "forced middlemen are most often . . . [a] collection of energy that can tend towards evil".

In her application, Sikora also challenged the ability of the union to judge whether an individual's beliefs are religious, and stated that she had held such beliefs since 1996, when she received letters requiring her to join a union or risk losing her employment. She said that she was worried about having to choose between her employment and supporting a union financially, and expressed

¹ Although the parties discuss the teachings of several religious schools, the Examiner will not examine them because they are not relevant to the discussion about the religious nature of her beliefs and their nexus with her objection.

her opinion that an employee's continued employment should rest on merit.

In her testimony, Sikora explained her application, stating that she does not distinguish between her goals and her beliefs, which are to do the right thing; that she does not believe in what she believes is the current trend of granting benefits that favor a group of employees, instead of focusing on wages. Specifically, she understands that the employer invests a higher amount of money in benefits for a person with five children than for a single employee without children. She also testified that not all unions represent such "evil," but those at her place of employment do and "should be disbanded" because the energy that union supporters put in "results in evil." She objected to walkouts from work, although she was not certain if the union had advocated them.

The union rejected Sikora's application on November 30, 2005, because it appeared to be based on political or philosophical convictions rather than on bonafide religious tenets. The union notified Sikora that it would process her application as a representation fee payer, and that she could appeal the decision under Chapter 391-95 WAC. The union's administrative director, Leslie Liddle, testified that she considered Sikora's request the same way she had considered seventeen others, of which she had approved eight. She researched about the information that Sikora provided and concluded that Sikora's objections appeared to be political and philosophical rather than religious.

Application of legal principles to the facts

Sikora argues that the nexus between her objection and her religious beliefs is that the divine nature of reason makes philosophical beliefs indivisible from religious tenets. In her

brief, Sikora argues that any inefficiency undermines the purpose of the agency, and that Sikora is weary of acts motivated by fear. The Examiner does not question the religious nature of her belief in personal sovereignty and the divinity of human reason, nor the reasonableness of her weariness of actions motivated by fear. However, Sikora's assertions of dislike for unions are based on circumstantial statements and are thus not connected to the religious tenets she holds. The Examiner notes that some of the facts that Sikora alleges lack statutory foundation, such as:

- the Department of Personnel no longer handles personnel relations for represented employees, including religious objectors;
- membership in unions is not mandatory under the statute;
- the Commission divided all general government bargaining units comprising supervisory and non-supervisory employees by statutory mandate, not by any dictate from the unions;
- the statute defines supervisory employees, not the unions;
- unions do not implement collective bargaining agreements unilaterally but rather must bargain with the state and submit to the will of the legislature regarding economic subjects; and
- RCW 41.80.060 states that the Legislature has not granted state employees the right to strike.

Another example of Sikora's counterfactual reasoning is that she told her domestic partner, Michele Burton, that single employees should receive a stipend to reduce the disparity between single employees and those with dependents. Burton testified that since

they had this discussion, Sikora's medical insurance changed and Sikora presently covers Burton as a dependent. According to Liddle's uncontested testimony, the unions that represented state employees under the civil service system, which preceded the PSRA, lobbied the legislature to enact the statute that allows domestic partners to be covered as dependents under the state employees' medical insurance.

The Examiner finds that Sikora does not object as much to the union as she does to its activities and to the way the legislature has reformed the personnel system. In fact, many of her concerns would disappear if the union shifts its priorities or changes its leadership. It is noteworthy that the bargaining unit members have the prerogative to replace the union with another that will carry out activities that Sikora does not object to. The statute allows Sikora to play a role in all of these scenarios. In fact, Burton testified that Sikora did not define her objection to unions specifically as a religious objection when she first expressed them, and that Burton believed that Sikora would support the unions if Sikora felt that their acts benefitted the public good.

The Examiner does not question the sincerity of Sikora's beliefs, but the evidence does not establish a nexus between these personal religious tenets and her aversion to mandatory union membership. Therefore, the Examiner concludes that Sikora did not meet her burden of proof.

Conclusion

Sikora failed to present a nexus between her religious beliefs and any sort of proscription of representation by the union. Therefore, the Examiner dismisses Sikora's claim for non-association status.

FINDINGS OF FACT

1. The Washington State Department of Fish and Wildlife is a general government agency within the meaning of RCW 41.80.005(1).
2. The Washington Public Employees Association, UFCW Local 365 (WPEA), is an employee organization within the meaning of RCW 41.80.005(7), and is the exclusive bargaining representative of the members of a supervisory bargaining unit at the Washington State Department of Fish and Wildlife.
3. The State of Washington and the WPEA are parties to a collective bargaining agreement that covers the bargaining unit described in paragraph 2 of these findings of fact and which protects the non-association rights of employees based upon bona fide religious tenets or teachings.
4. Leslie Sikora is an employee of the Washington State Department of Fish and Wildlife and a member of the supervisory bargaining unit described in paragraph 2 of these findings of fact.
5. On June 27, 2005, Sikora requested the WPEA to grant her non-association status based on personal religious beliefs as described in paragraph 3 of these findings of fact.
6. Sikora holds that mandatory unions empowered some employees to the detriment of others; that Sikora would lose power if she was forced to be associated to the union; that the union had redesigned the bargaining unit and redefined supervisors contrary to her preferences in order to obtain support for the

union within the bargaining unit; and that the union had established a contract that obstructed her professional and personal goals.

7. On November 30, 2005, the union rejected Sikora's request for non-association, and notified Sikora that it would be processed as an application to become a representation fee payer.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.80 RCW and Chapter 391-95 WAC.
2. Sikora has failed to sustain her burden of proof to establish that she is eligible to assert a right of non-association under RCW 41.80.100.

ORDER

1. Leslie Sikora is obligated to pay a representation fee to the Washington Public Employees Association, UFCW Local 365, pursuant to RCW 41.80.100 and the collective bargaining agreement between the union and the State of Washington.
2. If an appeal of this order is filed under WAC 391-95-270 within 20 days following the issuance of this order, any escrow established and maintained in connection with this proceeding under WAC 391-95-130 shall remain in effect pending a further order of the Public Employment Relations Commission.
3. Twenty-one days after the date of this order, any funds held in escrow under WAC 391-95-130 shall, in the absence of a

notice of appeal filed under paragraph two of this order,
shall be paid to the union.

Issued at Olympia, Washington, on the 13th day of December, 2006.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


CARLOS R. CARRION-CRESPO, Examiner

This order will be the final order of the
agency unless a notice of appeal is filed
with the Commission under WAC 391-95-270.