

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition for Declaratory Judgment of)	
EDMONDS EDUCATION ASSOCIATION)	CASE NO. 2068-D-79-20
for a ruling concerning the obligations of)	DECISION NO. 1239 - EDUC
JOHN R. PATRICK)	
under a union security agreement between the petitioner and)	
EDMONDS SCHOOL DISTRICT NO. 15)	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Jerry Edmonds and Kenneth E. Petty, Attorneys-at-Law,
appeared on behalf of John Patrick.

Joe C. Bullard, Administrative Assistant, appeared on
behalf of the District.

Symone Scales, Attorney-at-Law, appeared on behalf of
the Association.

On May 2, 1979, the Edmonds Education Association filed a petition with the Public Employment Relations Commission, seeking a determination as to the obligations of John Patrick, a certificated employee of the Edmonds School District claiming a religious objection to payment of representation fees under the provisions of RCW 41.59.100. A pre-hearing conference was held, and a statement of results of investigation was issued on January 29, 1980. Patrick objected to the results of the investigation, and a formal hearing was held on September 11, 1980 before Hearing Officer Jack T. Cowan.

FACTS:

Patrick was a high school teacher for the Edmonds School District during the 1978-79 school year. He is no longer employed by the District. The Association is the bargaining representative for the District's certificated staff. The Association and the District were parties to a collective bargaining agreement which required Patrick to become a member of the Association or pay an agency shop fee. The Agreement recognized the exception provided for in RCW 41.59.100:

41.59.100 Union security provisions--Scope--Agency shop provision, collection of dues or fees. A collective bargaining agreement may include union security provisions including agency shop, but not a union or closed shop. If an agency shop provision is agreed to, the employer shall enforce it by deducting from the salary payment to members of the bargaining unit the dues required of membership in the bargaining representative, or, for nonmembers thereof, a fee equivalent to such dues. All union security provisions must safeguard the right of nonassociation of employees based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee shall pay an amount of money equivalent to regular dues and fees to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the bargaining representative to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payment has been made. If the employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization.

Patrick refused to join the Association or pay an agency fee to it. Claiming a religious objection to the payment of money to a union, he offered to pay an equivalent amount to a charitable organization acceptable to the Association. The Association disputed Patrick's allegation of a bona fide religious objection to the payment of an agency fee. Patrick paid an amount equivalent to union dues to the District, which is holding it in trust pending the outcome of this proceeding. Patrick and the Association have agreed that if Patrick is ultimately successful in this litigation a mutually acceptable alternative charitable recipient would be Childrens' Orthopedic Hospital.

Patrick is, and was throughout the 1978-79 school year, an active member of Grace Chapel in Bellevue, Washington. He regularly attends services and religious instruction on Sunday mornings and on three evenings each week. Patrick testified that the pastor at Grace Chapel frequently sermonizes and gives formal instruction on the evils of unionism. Patrick indicated that he believes that unions attempt to take away the rights of employers in a way unauthorized by God.

Ronald A. Breckel is pastor at Grace Chapel, a non-profit organization which teaches bible doctrine. Breckel described Grace Chapel as a "fundamentalist", "protestant evangelical", "independent bible church". Grace Chapel is not affiliated with any major denomination. It was formed during the summer of 1977 and has about 100 members.

Breckel testified that on many occasions he has included anti-union statements in his sermons and religious instruction. He bases his conclusion that unionism is evil on scripture in the bible. He says:

"Our conclusion is that a believer, if he can at all possibly help it, not belong to a union, and that the principle of unionism is contrary to Bible doctrine of establishment."

POSITIONS OF THE PARTIES:

Patrick argues that his anti-union conviction is based on his religious beliefs and is entitled to statutory and constitutional protection, so that he should be allowed to make alternative payments to a charity.

The Association responds that the church to which Patrick belongs, Grace Chapel, does not ascribe to a religious tenet or teaching which would preclude Patrick's payment of an agency shop fee, and that Patrick's refusal to pay an agency shop fee is merely an extrapolation from generalized religious beliefs which cannot be construed as sufficient justification for the exemption established by RCW 41.59.100. The Association argues that since the Grace Chapel permits members of the church to belong to unions, Patrick does not fall within the statutory exemption.

DISCUSSION:

RCW 41.59.100 provides that a collective bargaining agreement involving the certificated staff of a school district may include an agency shop provision. Agency shop provisions require an employee as a condition of employment to either be a member of the collective bargaining representative, or else pay a representation fee related to the amount of the union dues. RCW 41.59.100 also provides that union security provisions must contain an exemption from this requirement to accommodate employees who decline to pay a representation fee "based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member". Grace Chapel teaches that unions are evil and should be avoided based on religious principles. Patrick sincerely believes those teachings and should be allowed the statutory exemption.

Interpreting the statute to mean that the exemption can only be claimed by an employee who faces expulsion from his church if he pays a representation fee to a union, would be overly stringent and would necessarily involve the Commission in inquiry into the quality of religious beliefs. See: Thomas v. Review Bd., Indiana Emp. Security Div., ___ U.S. ___ (1981). In a recently decided case, Puyallup Education Association, Decision 1118 (EDUC, 1981), a religious exemption to the payment of an agency shop fee was denied by the Commission because conflicting evidence led to the conclusion that the employee had not proven that his church had a tenet or teaching against union membership. There was no such conflicting evidence in the case at hand.

FINDINGS OF FACT

1. Edmonds School District No. 15 is a school district created pursuant to Title 28A RCW.
2. The petitioner, Edmonds Education Association is an employee organization within the meaning of RCW 41.59.020(1).
3. Edmonds School District No. 15 and the Edmonds Education Association had a collective bargaining agreement covering the period 1978-81 which recognizes the Association as exclusive bargaining representative of all certificated staff. The agreement contained an agency shop provision which provided that employees within the bargaining unit who do not become and remain members of the union will be required to pay a representation fee in lieu of membership dues and also provides for safeguarding the right of non-association of employees based upon bona fide religious tenets or teachings of a church or religious body of which the employee is a member. This provision makes specific reference to the requirements of RCW 41.59.100.
4. John Patrick was a certificated employee of the District during the 1978-79 school year, employed in the bargaining unit represented by the petitioner. John Patrick requested of the Edmonds Education Association that he be permitted to make alternative payments based on an asserted right of non-association provided in RCW 41.59.100.
5. Edmonds Education Association refused to permit Patrick to make alternative payments.
6. Patrick is a member of Grace Chapel, in Bellevue, Washington. Ronald A. Breckel, pastor of Grace Chapel, regularly teaches its membership that, based upon religious principles, labor organizations are evils to be avoided. Patrick sincerely believes this.
7. Patrick has proposed making his alternative payments to the Children's Orthopedic Hospital and that designation of a non-religious organization is acceptable to all parties if it is concluded that Patrick is entitled to make such alternative payments.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to RCW 41.59.100.
2. John Patrick's claim of a right of non-association is based on bona fide religious tenets or teachings of the church or religious body of which he is a member.

ORDER

- 1) If no petition for review of this order is filed with the Public Employment Relations Commission within twenty (20) days following the date of this order, Edmonds School District No. 15 shall thereafter remit in accordance with WAC 391-95-310 to the Children's Orthopedic Hospital of Seattle any and all funds withheld and retained pursuant to WAC 391-95-130 from the pay of John Patrick.
- 2) If a petition for review of this order is filed with the Public Employment Relations Commission, such filing shall automatically stay the effect of this Order pending a ruling by the Commission.

DATED at Olympia, Washington this 20th day of November, 1981.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director