

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
JAMES B. LAMBERT)	CASE NO. 7182-D-87-75
For determination of a dispute)	
concerning union security arising)	DECISION 2997-A - EDUC
under a collective bargaining)	
agreement between:)	
BATTLE GROUND SCHOOL DISTRICT)	
and)	FINDINGS OF FACT,
BATTLE GROUND EDUCATION)	CONCLUSIONS OF LAW
ASSOCIATION)	AND ORDER
_____)	

James B. Lambert, appeared pro se.

Sheryl Stevens, appeared on behalf of the
Battle Ground Education Association.

On December 14, 1987, James B. Lambert filed a petition with the Public Employment Relations Commission, seeking a declaratory ruling pursuant to Chapter 391-95 WAC concerning his obligations under a union security provision contained in the collective bargaining agreement between the Battle Ground School District (employer) and the Battle Ground Education Association (union). A hearing was held on June 9, 1988, in Battle Ground, Washington, before Examiner Mark S. Downing. The union submitted a post-hearing brief.

BACKGROUND

James B. Lambert has been employed as a teacher in the Battle Ground School District for 16 years. He is a member of a bargaining unit consisting of all non-supervisory certificated employees of the employer. The exclusive bargaining representative for the certificated employee bargaining unit is the Battle Ground Education Association (BGEA).

Lambert has been a member of the BGEA since the beginning of his employment with the school district. As a member of the BGEA, Lambert is automatically a member of the Riverside UniServ Council, the Washington Education Association (WEA) and the National Education Association (NEA).

The petitioner first became dissatisfied with the direction of the BGEA during the 1985-86 school year, and he voiced his concerns at that time to Steve Hoskins, the BGEA President. Acting on Hoskins' suggestion that he become more involved in the workings of the organization, Lambert sought and was elected to office as a BGEA building representative for the 1986-87 school year.

Service as a BGEA building representative proved to be frustrating for the petitioner, as he felt that his opinions were often ignored or stifled by others through emotional outbursts rather than with reasoned responses. On August 27, 1987, Lambert wrote to the BGEA, claiming that he had a bona fide religious objection to membership in the union, and requesting that his membership be revoked.

On September 21, 1987, the BGEA Executive Board requested that Lambert submit more specific reasons concerning his religious objection. Lambert responded on October 9, 1987, detailing

the substance of his religious beliefs. On November 23, 1987, the BGEA Executive Board rejected Lambert's request to withdraw from the union. Lambert's petition for a declaratory ruling to the Public Employment Relations Commission followed.

The petitioner is a member of the Cherry Grove Friends Church. He has attended regularly for the last five years, actively participating in the church's functions and committees. The petitioner describes the Friends Church as "fundamentalist", with beliefs based on the Bible,¹ and as historically affirming "the individual conscience and social activism" of its members as they are led by the Spirit of Jesus Christ. He indicated that the word "Quaker", formerly used to describe the Friends Church, means "spirit-filled".

POSITIONS OF THE PARTIES

The petitioner admits that the Friends Church does not have a specific teaching prohibiting its members from joining a union. He maintains that various resolutions, endorsements and lobbying efforts by the WEA and NEA are diametrically opposed to his personal religious beliefs, placing his focus on three main grounds. Initially, he views the union as opposing the teaching of older, mainstream values held by the community, while being open to new, inter-cultural or global values. Second, he opposes union membership because he believes that the NEA takes a pro-choice position on abortions. His third area of concern involves the issue of strikes.

The union contends that petitioner's objections to union membership are political in nature, and are not grounded in

¹ He described the Bible as the "Manufacturer's handbook".

religious beliefs. Additionally, the union maintains that petitioner's objections are based on erroneous perceptions of official union positions. The union argues that if a religious exemption is granted to petitioner, it should be confined to the NEA, as petitioner provided no evidence of objection to the WEA, Riverside UniServ Council or BGEA.

DISCUSSION

The Standards for Decision

The Educational Employment Relations Act, RCW 41.59.100, protects the rights of certificated employees who object to union membership based on bona fide religious beliefs. The Public Employment Relations Commission has established rules in Chapter 391-95 WAC to administer its responsibilities under that statute. Such rules set forth procedural steps and evidentiary standards for public employees to follow in pursuing a religious-based right of non-association. WAC 391-95-230 provides:

WAC 391-95-230 HEARINGS--NATURE AND SCOPE.
Hearings shall be public and shall be limited to matters concerning the determination of the eligibility of the employee to make alternative payments and the designation of an organization to receive such alternative payments. The employee has the burden to make a factual showing, through testimony of witnesses and/or documentary evidence, of the legitimacy of his or her beliefs, as follows:

(1) In cases where the claim of a right of nonassociation is based on the teachings of a church or religious body, the claimant employee must demonstrate:

(a) His or her bona fide religious objection to union membership; and

(b) That the objection is based on a bona fide religious teaching of a church or religious body; and

(c) That the claimant employee is a member of such church or religious body.

(2) In cases where the claim of a right of nonassociation is based on personally held religious beliefs, the claimant employee must demonstrate:

(a) His or her bona fide religious objection to union membership; and

(b) That the religious nature of the objection is genuine and in good faith.

WAC 391-95-230 codifies the distinction between church-held and personally-held beliefs that was recognized by the Washington Supreme Court in Grant v. Spellman, 99 Wn.2d 815 (1983) (Grant II), in addition to incorporating the Commission's evidentiary standards adopted in Edmonds School District, Decision 1239-A (EDUC, 1983).

The petitioner in this case has the burden to establish, through the presentation of factual evidence, the legitimacy of his religious beliefs and how such beliefs qualify him for an exception to mandatory union membership. See, also, Puyallup School District, Decision 2711 (EDUC, 1987); Snohomish County, Decision 2859-A (PECB, 1988); Brewster School District, Decision 3048 (EDUC, 1988). Any refusal or failure on the part of the petitioner to go forward towards a burden of proof will weigh against the exemption. Mukilteo School District, Decision 1323-A, 1323-B (EDUC, 1984); Tacoma School District, Decision 2075 (EDUC, 1984).

The Religious Nature of the Objection

In this matter, petitioner's church does not have a specific teaching prohibiting its members from joining a union. The petitioner presented ample evidence concerning the religious

nature of his personal beliefs. Lambert has been an active member of the Friends Church for the last five years, a significant period of time. Although petitioner failed to provide exhaustive evidence of his study of the Bible and prayer discipline, it is evident to the Examiner from petitioner's frequent reference to specific Biblical passages, that he has engaged in religious studies and that his religious beliefs are sincerely held. Lambert testified that his religious beliefs dictated other facets of his life, such as his role as a parent and his involvement in political activities. No evidence was presented to indicate that his professed beliefs are deceitfully or fraudulently held.

The union urges that petitioner's objections are political in nature and were triggered by Lambert's frustrating experience as a BGEA building representative during the 1986-87 school year. While Lambert's experience as a union official clearly influenced his decision to seek a religious exemption, the Examiner finds that the seed of his current religious objection was planted many years previous to this experience. Thus, the Examiner concludes that the petitioner has met his burden of proof to the extent of showing that his religious objection is genuine and held in good faith.

Erroneous Perceptions of Union Positions

In addition to establishing the bona fide nature of his religious beliefs, the petitioner must show how those beliefs dictate his opposition to union membership. This analysis requires examination of the union's actual positions on various social issues of concern to the petitioner. An objection to a labor organization must be based on truthful and factual knowledge of the objectionable conduct or position taken by the labor organization. Brewster School District, Decision 3027

(EDUC, 1988). Objections based on misinformation or erroneous assumptions do not qualify as a basis for assertion of the right of non-association provided by statute. North Thurston School District, Decision 2433 (EDUC, 1986); Puyallup School District, supra.

Alignment with the ACLU -

In this case, the petitioner's initial objection to the union is based on an alleged alignment of the NEA with the American Civil Liberties Union (ACLU). Lambert views the ACLU as an organization that attempts to prohibit the expression of any sort of religious beliefs in the public schools. He provided no documentary evidence of any link between the two organizations and, under the scrutiny of cross-examination, admitted that the sole basis for his belief was the similarity of position statements made by both organizations. Lambert contended that the union, like the ACLU, promotes "freedom from religion" as opposed to "freedom of religion". Lambert is also concerned about the lack of consideration of moral principles by union lobbyists when issues are analyzed, a view that he feels is contrary to the Judeo-Christian principles that the United States was founded upon.

Robert Maier, a WEA field representative for governmental relations², gave unrefuted testimony that no WEA or NEA dues monies are used to support the ACLU.

Without suggesting what the effect of the opposite conclusion would be, it must be concluded that the petitioner failed to support his claim that the union is aligned with the ACLU.

² Maier coordinates the union's political activities, including the endorsement and financial support of political candidates and lobbying for legislation.

Abortion / Pro-choice / Family Planning -

The petitioner's second objection to the union concerns what he views as its pro-choice position on abortions, as evidenced by its support for family planning organizations, such as Planned Parenthood, and for the establishment of community-operated, school-based family planning clinics.

The petitioner presented numerous biblical verses³ as the basis for his religious belief in the sanctity of human life, and for his opposition to abortions, but the evidence he presented about the union's policies can be characterized as skimpy, at best. While preparing his petition, Lambert reviewed some resolutions⁴ that he had received in the mail in his capacity as a union member.⁵ He did not put any such resolutions into evidence, however, or clarify whether the resolutions that he relies upon were actually adopted. It was not until the day of hearing in this matter that Lambert requested copies of any resolutions from the BGEA president.

The BGEA president testified that he was aware of a NEA resolution on reproductive freedom that neither supported nor opposed abortion, but instead affirmed a woman's right to make

³ Matthew 19; Mark 10; Luke 18; Exodus 21:22-25; Psalms 139:13 and 51:5; Jeremiah 1:5; and Genesis 25:22-23.

⁴ The union's documents indicate that the NEA and WEA adopt "Resolutions" as statements of philosophy that indicate the organization's positions on various social issues. The record indicates that the BGEA and the Riverside UniServ Council do not adopt such resolutions.

⁵ The record indicates that Today's Education, the official newsletter of the NEA, publishes proposed resolutions before the annual July representative assembly, as well as those resolutions officially adopted by the organization in an issue after the assembly.

her own decision on such issues. Although the text of such a resolution was not placed into evidence, Robert Maier confirmed Hoskins' understanding of the NEA resolution. He also testified that no WEA or NEA dues monies are utilized to fund agencies which support abortions.

Petitioner failed to supply any evidence in support of his objection that NEA supports family planning organizations or the establishment of family planning clinics in the public schools. Petitioner's concern appeared to be more focused on whether or not such organizations offer a broad range of choices and services to their clientele.

Maier testified that WEA intentionally has refused to take a position on the issue of community-operated, school-based family planning clinics, due to the divisive nature of this issue.

Petitioner failed to meet his burden of proof that the union takes a pro-choice position on abortions, or supports family planning organizations or clinics.

Potential for Strikes -

The petitioner's third objection to the union centers on the issue of strikes. Lambert testified that, pursuant to the Bible, in Matthew 18, he is committed to submitting to the wishes of his employer. Lambert thus believes that the Bible instructs him that membership in the BGEA sets a poor model for his students, as he expects them to view him as their unchallenged authority figure.

The record indicates that the BGEA membership has never taken a strike vote, let alone engaged in a strike. The petitioner failed to elicit evidence as to what position the union takes

on the issue of strikes. No resolutions or statements from union officials were offered on this matter.

Conclusion

The petitioner has failed to adequately research and document the union positions or policies, and so has failed to bring forth evidence relating his religious beliefs to actual union positions or policies. The only credible evidence presented in this proceeding as to union positions on various social issues was a document entitled "1988 Representative Assembly-Continuing Resolutions", and that was offered in evidence by the union.⁶ The Examiner's review of that document reveals no mention of the ACLU or Planned Parenthood, or of the subjects of abortion, school-based family planning clinics, or strikes. It appears that the petitioner has relied on literature from third parties, but inferences drawn from statements of third parties, standing alone, are not sufficient to prove what are the actual positions of a union. Puyallup School District, supra. Petitioner has failed to sustain his burden of proof in these proceedings.

FINDINGS OF FACT

1. The Battle Ground School District is a public employer within the meaning of RCW 41.59.020(5).
2. The Battle Ground Education Association, an employee organization within the meaning of RCW 41.59.020(1), is the exclusive bargaining representative of a bargaining unit consisting of all non-supervisory certificated employees of the employer.

⁶ This document contained all resolutions adopted by the 1987 WEA representative assembly.

3. James B. Lambert has been a certificated employee of the employer for 16 years. He has been a member of BGEA/-Riverside UniServ Council/WEA/NEA throughout his employment with this employer.
4. Lambert has been an active member of the Cherry Grove Friends Church for the last five years. The church does not have teachings against membership in labor organizations.
5. On August 27, 1987, Lambert sent a letter to the union asserting a right of non-association based on religious beliefs, pursuant to RCW 41.59.100. His request was denied by BGEA on November 23, 1987. Lambert's petition for a declaratory ruling to the Public Employment Relations Commission was filed on December 14, 1987.
6. Lambert failed to prove what positions the union holds on various social issues of concern to him.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in the matter pursuant to Chapter 41.59 RCW and Chapter 391-95 WAC.
2. James B. Lambert has failed to demonstrate that his objection to membership in the Battle Ground Education Association is based on actual union positions on various issues of concern to him, and he therefore has not sustained his claim of a right of non-association based on bona fide religious tenets or teachings of a church or religious body under RCW 41.59.100.

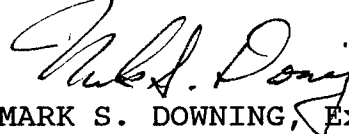
ORDER

1. If a petition for review of this order is filed under WAC 391-95-270 within twenty (20) days after the service of this order, any escrow established and maintained in connection with this proceeding under WAC 391-95-130 shall be continued in effect pending a further order of the Public Employment Relations Commission.

2. If no petition for review of this order is filed, the Battle Ground School District shall remit funds held in escrow in connection with this proceeding under WAC 391-95-130, and future deductions from the salary of James B. Lambert pursuant to the agency shop provisions of the collective bargaining agreement, to the Battle Ground Education Association.

DATED at Olympia, Washington this 10th day of February, 1989.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Examiner

This order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-95-270.