

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
	)	
THOMAS R. LEURQUIN	)	CASE 12387-D-96-118
	)	
for nonassociation under a	)	
collective bargaining agreement	)	
between:	)	DECISION 5994 - PECB
	)	
INTERNATIONAL FEDERATION OF	)	
PROFESSIONAL AND TECHNICAL	)	
ENGINEERS, LOCAL 17	)	
	)	FINDINGS OF FACT,
and	)	CONCLUSIONS OF LAW
	)	AND ORDER
CITY OF SEATTLE	)	
	)	
	)	

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Thomas R. Leurquin, appeared pro se.

Donald Briscoe, Union Representative, appeared on behalf of International Federation of Professional and Technical Engineers, Local 17.

Mark Sidran, City Attorney, by Fritz E. Wollett, Assistant City Attorney, appeared on behalf of the City of Seattle.

On March 15, 1996, Thomas R. Leurquin filed a petition with the Public Employment Relations Commission under Chapter 391-95 WAC, seeking a ruling concerning his obligations under the union security provisions of a collective bargaining agreement between the City of Seattle (employer) and International Federation of Professional and Technical Engineers, Local 17, AFL-CIO (union). A hearing was held on November 6, 1996, before Examiner Paul T. Schwendiman. None of the parties filed briefs.

BACKGROUND

The employer recognizes the union as exclusive bargaining representative of a bargaining unit which includes the position held by Leurquin. A collective bargaining agreement between the union and the employer requires, as a condition of employment, that all employees covered by the agreement:

- 5.3 ... shall on or after the thirtieth (30<sup>th</sup>) day following the employment the beginning of such employment, or inclusion within the bargaining unit, either join the union or contribute monthly an amount equivalent to the regular monthly dues of the union to the union.

...  
Employees who are determined by the Public Employment Relations Commission to satisfy the religious exemption requirements of RCW 41.56.122 shall contribute an equivalent amount 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 regular monthly dues.

Leurquin joined the union in 1987. After paying union dues for several years, Leurquin asserted a right of nonassociation in a letter to the union dated October 21, 1995. The union denied his request, and Leurquin initiated this proceeding.

POSITIONS OF THE PARTIES

Leurquin argues that RCW 41.56.122 entitles him the right of nonassociation with the union, and the right to pay an equivalent

of union dues to a charity. He primarily bases his claim on a personal religious objection to paying union dues. Leurquin professes 15 "rules of life" related to his assertion of a right of nonassociation, and enumerates 13 reasons for his request.

The union argues that Leurquin is not entitled to the right of nonassociation.

The employer took no position in this case.

#### DISCUSSION

The Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, provides, in part:

RCW 41.56.122 Collective bargaining agreements -- Authorized provisions. A collective bargaining agreement may:

(1) Contain union security provisions: PROVIDED, That nothing in this section shall authorize a closed shop provision: PROVIDED FURTHER, That agreements involving union security provisions must safeguard the **right of nonassociation of public employees based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member.** Such public employees shall pay an amount of money equivalent to regular union dues and initiation fee to a nonreligious charity or to another charitable organization mutually agreed upon by the public employee affected and the bargaining representative to which such public employee would otherwise pay the dues and initiation fee. The public employee shall furnish written proof that such payment was made. If the public employee and the bargaining representative do not reach agreement on such matter,

the commission shall designate the charitable organization. ...

[1975 1st ex.s. c 296 § 22; 1973 c 59 § 2. Emphasis by **bold** supplied.]

An employee can establish a right of nonassociation under RCW 41.56.122, either by demonstrating a bona fide religious objection based on the teachings of a church or religious body of which the employee is a member, or by demonstrating an objection based upon bona fide personal religious beliefs. Grant v. Spellman, 99 Wn.2d 815 (1983) [Grant II].

The Commission adopted WAC 391-95-230 to codify the Grant II tests for right of nonassociation claims, and to put claimants on notice of what they are expected to produce at a hearing. It includes:

... 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.

Claim Based on Church Membership

Leurquin's claim of a right of nonassociation based on the teachings of a church or religious body fails. While his testimony referred to "church" many times, the record does not establish that Leurquin actually belongs to any church or organized religious body. Without proof that his objection is based on bona fide religious teachings of a church or religious body and proof he is a member of that church or religious body, his claim of nonassociation based WAC 391-95-230(1) fails.

Claim Based on Personal Religious Beliefs

Leurquin primarily claims "personally-held religious beliefs" as the basis for nonassociation under WAC 391-95-230(2).<sup>1</sup> His claim under that test also fails, however.

Religious Nature of Objection -

Leurquin had the burden to establish that his claim is based on his personal beliefs which are "religious" in nature. Snohomish County, Decision 2859-A (PECB, 1988). Quoting *Webster's Third New International Dictionary* in Edmonds School District, Decision 1239-A (EDUC, 1983), the Commission adopted the ordinary meaning of "religion" for its decisions.<sup>2</sup> That definition and a definition widely seen by lawyers are as follows:

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<sup>1</sup> His statement at page 10 of the transcript of the hearing in this proceeding was, "[M]y right of non-association ... will be based primarily on personally-held religious beliefs which are founded on actual Church beliefs or Church doctrines."

<sup>2</sup> The court in Hazen v. Catholic Credit Union, 37 Wn.App. 502, 606-607 (1984), review denied, 102 Wn.2d 1003 (1984), similarly resorted to dictionary definitions of the word "religious" as used in Chapter 49.60.040 RCW.

[Religion] ... The personal commitment to and serving of God or a god with worshipful devotion, conduct in accord with the divine commands especially as found in accepted sacred writings or declared by authoritative teachers, a way of life recognized as incumbent on true believers, and typically the relating of oneself to an organized body of believers.

*Webster's Third New International Dictionary* (1967) at 1918.

[Religion] Man's relation to Divinity, to reverence, worship, obedience, and submission to mandates and precepts of supernatural or superior beings. In its broadest sense includes all forms of belief in the existence of superior beings exercising power over human beings by volition, imposing rules of conduct, with future rewards and punishments. Bond uniting man to God, and a virtue whose purpose is to render God worship due him as source of all being and principle of all government of things.

*Black's Law Dictionary* (5th ed. 1979), at 1161.

Personal secular beliefs are not sufficient for nonassociation under RCW 41.56.122. City of Seattle, Decision 2086 (PECB, 1985); North Thurston School District, Decision 2433 (PECB, 1986). While the Commission cannot inquire into the reasonableness or plausibility of the religious beliefs claimed by an employee in a proceeding under Chapter 391-95 WAC, the Commission does apply an objective standard to determine whether the beliefs are religious in nature, as compared with philosophical, sociological, ethical or moral beliefs. Mukilteo School District, Decision 1323-B (PECB, 1984).<sup>3</sup>

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<sup>3</sup> The court in Hazen v. Catholic Credit Union, *supra*, also excluded the practices of "charity", "kindness to others" and "virtue" from the commonly accepted definitions of the word "religious".

Thus, the religious nature of opposition to paying union dues is a question of fact, and an evidentiary matter. Edmonds School District, supra.

General principles clarify a nonassociation claimant's duty to prove the religious nature of his or her objection:

- An employee will not be granted an exemption if he or she merely claims that religious beliefs prevent supporting a union; the employee must explain the particular beliefs that are inimical to supporting a union, and those specific beliefs must be religious as distinguished from political, ethical, moral, sociological, or philosophical. Mukilteo School District, supra.
- The claimant has the responsibility to build a record upon which the Examiner can make a reasoned judgment about the religious basis (and sincerity) of the claimant's beliefs. Puyallup School District, Decision 2711 (EDUC, 1987).
- In addition to establishing the bona fide nature of the religious beliefs, the claimant must show how those beliefs dictate opposition to union membership. This analysis requires examination of the union's actual positions on various issues of concern to the petitioner. Brewster School District, Decision 3027 (EDUC, 1988).

Leurquin claims that his religious beliefs prevent him from supporting the union, but the record does not sustain that argument. Leurquin testified as to only general religious beliefs affecting morals and ethics of all persons. He bases his claimed personal beliefs on nonspecific religious ties, teachings and

doctrine; non-specific church tenets and teachings; non-specific Bible texts; and non-specific guidance from God. The following examples are found in his testimony:

I feel that moral right and wrong is instilled in people through religious teaching and doctrine. Moral conscience is instilled through these and also through a child's upbringing, a person's view of the world, and how they feel they must live their lives. One must consistently and continuously evaluate their lives on moral and ethical grounds to be sure that they are keeping on track. Religious ties, doctrines, and teachings help instill these things and provide guidance into what is right, what is wrong, and what is just.

Meditation and spiritual guidance help a person decide these things when the choices become difficult and conflicting. The invisible hand of God helps a person decide these things. Religious tenets help provide spiritual and moral guidance in a person so that they can reach down during difficult times and decide for themselves which path to take in their life.

These choices are sometimes very difficult and can weigh heavily on a person's moral and ethical fabric. It is precisely during these times when decisions are difficult and usually conflicting, when divine direction is most important. Applying moral and ethical values and teachings from the Bible and Church tenets is essential to making the difficult decisions of life and to living a happy and fruitful life. Only by conducting life in this way may a person achieve happiness. Essentially this is living one's life in a state of truth. Telling the truth to yourself about your convictions and living your life in that manner is essential to happiness and mental contentment.



Happiness is a state of mind and results when a person is content with how they live and have lived their lives. Contentment comes from living a moral, ethical life, a truthful life. Knowing what truth and contentment is and how to achieve it comes from religious teachings and the belief in the moral and ethical teachings of God and the Church.

Knowing how to apply these to your own life comes from the tenets and teachings of God and the Church and tremendous amounts of soul searching through meditation and contemplation. Individual conscience and moral fiber are fundamental to happiness now and in the hereafter.

Violation of your code of ethics which were learned through the teachings of God and the Church reduce or destroy happiness and degrade the moral fabric of society at large.

Tr. 16-18.

Nowhere does the record present more than the mere claim that religious beliefs somehow require Leurquin to disassociate himself from the union.

Vague references are not a sufficient basis for inferring greater specificity. Leurquin believes a person's morals and ethics derive from "Church teachings" and "religious doctrine", the "Bible", and the "invisible hand of God", but he also says that morals and ethics derive from a "child's upbringing", a "person's view of the world", and "how they feel they must live their lives".<sup>4</sup> The result is Leurquin's complex system of ethics, morality, and philosophy. He recognizes the complexity of living in his desired moral and ethical fashion, and he follows a basic tenet of leading a "good" life expressed as the "Golden Rule" that guides him:

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<sup>4</sup> Tr. 16.

... treat all persons with the respect and dignity that they deserve to be treated in and live your life in a highly moral and ethical manner.

Tr. 19.

From his golden rule stem his 15 specific "rules of life" relating to his assertion of a right of nonassociation:

1. To take proper care of yourself and family and others;
2. Love and help your fellow man, woman, and children to the best of your ability and when they are in need;
3. Set a good example through your action and spoken word; live a moral and ethical life;
4. Live with the truth even if it is personally embarrassing or reflects on you negatively; do not lie;
5. Do not harm another person; rather, one should help their fellow person;
6. Do not partake of illegal activities;
7. Support policies designed and run in an equitable manner for all people;
8. Support persons who want to promote good will and who want to help others and improve the world;
9. Safeguard and improve your personal and global environment;
10. Do not steal;
11. Be worthy of trust and keep your word once it is given;

12. Fulfill all your obligations and promises to the best of your ability;
13. Be industrious and productive to the greatest extent possible;
14. In everything that you attempt, do it to the best of your ability and strive to improve in all areas of your life, and;
15. Respect the beliefs of others and do not judge others.

Tr. 20-21.

While Commission precedent requires "religion", as defined by "commitment to and serving of God or a god ...", no supreme being is mentioned anywhere in Luerquin's 15 "rules of life". Those rules relate to no specific "religious" belief, and are not in themselves "religious" beliefs.

Luerquin also enumerated 13 specific reasons for requesting nonassociation from the union:

1. Unions contribute to **political** causes that I find **unethical** or **immoral**.
2. It is my **moral** and **ethical** duty to help others when I can. Having union dues paid to a charitable organization will foster this.
3. It's my **duty as a citizen of society** and a **moral** human being to improve the world that I live in. Having union dues paid to a charitable organization will foster this and **improve the world in which we all live**.
4. I do not feel that unions promote individual freedom and responsibility in the work place. This tends to reduce a per-

son's drive to improve competence in the workplace. This tends to **reduce a person's drive to improve competence, be industrious, and be productive, and therefore, be the best citizen possible.**

5. I believe unions tend to make people dependent upon them, rather than independent and self-governing; which I don't believe in the **best interest of my fellow man** nor in line with the **philosophy of Jesus.**
6. By paying union dues, **funds are not being put where they optimize help to society and my fellow man.**
7. Dues are not voluntary. They are mandatory as a condition of employment, which I consider to be an **unethical** taking of my wages since it is not by my choice and **does not optimize benefits to society and my fellow man.**
8. I do not have the freedom of choice on whether to choose or not choose - let me start over with that. I do not have the freedom of choice on whether to choose or not to choose to join. Since it is a condition of employment, a basic freedom, freedom of choice is removed, and the **society is hurt as a result.**
9. My **belief in God, church teachings, schooling and upbringing** implanted a conviction of a non-violent way of life. **PAC** contributions may not support this way of life and beliefs.
10. I don't want to support or accept financial support from organizations which adhere to views or practices which I do not agree and may find **unethical and immoral.**
11. **Moral** conscience should not be dictated to me by a third party. I must be al-

lowed to think and act independently and exercise **morality** and **ethical** judgment at all levels of my life. Union membership interferes with this freedom interferes with this freedom of thought and **moral** conscience duty to union activities and policies such as **PAC** contributions and certain work place rules.

12. A person must live up to their word and **moral** code of their beliefs and I feel union membership compromises this.
13. The union has not lived up to either their **legal or moral** obligation to me as far as my rights on non-association are concerned. While they were in the business of defending employee rights, they have ignored even responding to my request for non-association. They have not responded to me in the manner prescribed by law and I consider them to be untrustworthy, unwilling to fulfill their obligations, untruthful, **unethical**, and disrespectful of my beliefs and rights.

Tr. 22-25 [emphasis by **bold** supplied].<sup>5</sup>

Even though a few references to "Jesus", "God" and "church" are found scattered among those 13 statements, they are not related to "religious" beliefs so much as to moral, ethical, sociological, political, philosophical, and even economic beliefs mentioned 25 times.<sup>6</sup> The reference to a "philosophy of Jesus" is not explained or cited to any source for further information. While Leurquin states that philosophy is "not in line with" union, and that

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<sup>5</sup> The term "PAC" refers to a Political Action Committee.

<sup>6</sup> Ethical reasons are enumerated in items 1, 2, 7, 11, and 13; moral reasons in items 1, 2, 3, 10, 11, 12, and 13; sociological reasons in items 3, 4, 5, 6, 8, and 9; political reasons in items 1, 9, and 11; economic reasons in items 4, 6, and 8; and a philosophy in item 5.

"unions tend to make people dependent upon them, rather than independent and self-governing",<sup>7</sup> and "not in line with" unions, such statements do not rise to the level of proving religious beliefs which prohibit support of a union.

This may be the first case in which the Commission has been asked to rule that the alternative justifies the exception. Items 2 and 3 among Leurquin's 13 points seem to suggest that charities would make better use of the funds than the union, as if that were a basis for granting the right of nonassociation. The law requires, however, that the right of nonassociation be established on the basis of religious beliefs before the alternative payments come into play. Leurquin could choose to make charitable donations above and beyond any amounts paid to the union, or even in the absence of union security obligations, but those would not prove his eligibility to assert a right of nonassociation under RCW 41.56.122.

In summary, Leurquin's "golden rule" and "rules of life" have not been established either as personal "religious" beliefs or as founded on the documented "actual Church beliefs or Church doctrines" of any organized religious body. Neither do his 13 enumerated reasons for nonassociation contain, in and of themselves, sufficient information to establish them as bona fide "religious" beliefs.

#### Genuineness, Sincerity and Understanding

Apart from the nature of an objection, the genuineness and sincerity of a claimant's assertion of a right of nonassociation must be discerned from all of the facts and circumstances of the case.

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<sup>7</sup> Enumerated reason number 5, found at Tr. 23.

Misunderstanding -

A claim based upon erroneous understandings of union actions or positions will not suffice. Brewster School District, Decision 3047-A (EDUC, 1989); Battle Ground School District, Decision 2997-A (EDUC, 1989).

Leurquin's understanding of some facts, and some of the assumptions upon which he bases his objections, are found to be erroneous. For example, Leurquin stated:

I do not have the choice of whether to choose to join or not to join [the union].

Tr. 24.

In fact, he has a choice about whether to join the union or pay a service fee to the union.<sup>8</sup>

Leurquin cited the union's political action committee (PAC) in his arguments. Ultimately, however, he was uncertain as to whether the PAC contributions supported the non-violent way of life to which he aspires, or as to whether organizations that adhere to practices

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<sup>8</sup> The rule announced by the Supreme Court of the United States in Aboud v. Detroit Board of Education, 431 U.S. 209 (1977) is that union security provisions in public employment violate employees' freedom of association rights under the First Amendment, if union membership is actually required and the fee being paid to the union is more than payment for services rendered. Accord, Powerhouse Engineers v. State, 89 Wn.2d 177 (1977). Constitutional rights impacting on public sector union security arrangements are within the jurisdiction of the courts, under IAFF, Local 2916 v. PERC, 128 Wn.2d 375 (1995), and the extent of the Commission's jurisdiction in this case is to note that Leurquin's argument is likely based on an erroneous understanding of his rights.

with which he disagrees are actually immoral or unethical.<sup>9</sup> Placing reliance on such ambiguous reasons for not supporting the union is akin to placing reliance on factual errors or assumptions on which objection to union support is based.

#### Inconsistent Actions

Facts concerning actions by an employee that are inconsistent with a claimed right of nonassociation are to be considered in evaluating whether the claim is bona fide and in good faith. Community College District 1, Decision 3567 (CCOL, 1990).

Leurquin paid union dues for eight to nine years prior to asserting a request for nonassociation. This weighs against finding a bona fide, good faith claim of a right of nonassociation under RCW 41.56.122, in the absence of any evidence concerning a change of circumstances or a change of Leurquin's religious beliefs.

#### Causation -

An employee whose objections to supporting a union are bona fide, and based on strongly-held personal religious beliefs, must also make a record sufficient for the Examiner to separate causation based those "religious" beliefs from causation based on moral, philosophical, ethical, sociological, or other non-religious beliefs and principles. Mukilteo, supra.

Based on the entirety of the record, Luerquin's objections to supporting the union are found to be based on secular, rather than religious, reasons. The Examiner notes Luerquin's statement in this record that:

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<sup>9</sup> Tr. 24. Reasons 9 and 10.



It is not possible to separate out religious tenets from my personal beliefs. ...

When one tries to live their life in a moral and ethical fashion which is based on their belief in God and Church teachings, it is virtually impossible to distinguish between the two. I am not capable of separating these two. ...

Tr. 18-19.

Based on the record in this case, the Examiner is also unable to separate causation based on non-religious beliefs from any minor residuum of causation attributable to his religious belief.

#### FINDINGS OF FACT

1. The City of Seattle is a municipal corporation of the state of Washington, under RCW 41.56.020, and is a "public employer" within the meaning of RCW 41.56.030(1).
2. International Federation of Professional and Technical Engineers, Local 17, AFL-CIO, a "bargaining representative" within the meaning of RCW 41.56.030(3), is the exclusive bargaining representative of a bargaining unit of City of Seattle employees which includes professional, technical, business, recreational, and human rights employees.
3. The employer and the union have been parties to a series of collective bargaining agreements containing union shop provisions which require all bargaining unit employees to maintain their membership in the union. Such union security provisions safeguard the right of nonassociation of employees

based upon bona fide religious tenets or teachings of a church or religious body.

4. Thomas R. Leurquin is an employee of the City of Seattle, included in a bargaining unit represented by Local 17. Leurquin was a member of Local 17 for eight or nine years.
5. On March 15, 1996, Leurquin filed a petition asserting a right of nonassociation. Leurquin seeks to make alternative payments to a charity, rather than the payments required to the union under the union security provision of the collective bargaining agreement between the employer and union.
6. Leurquin has failed to establish that his objection to paying union dues is based upon the tenets or teachings of a church or religious body of which he is a member.
7. Leurquin has failed to detail personal religious beliefs as the basis for his objection to paying union dues.
8. The record in this case suggests that Leurquin's objection to paying union dues is largely, if not entirely, based upon moral, philosophical, sociological, ethical or economic beliefs and considerations.

#### CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW and Chapter 391-95 WAC.

2. Thomas R. Luerquin has not sustained his burden of proof demonstrating his religious beliefs prevent him from paying union dues and his assertion of a right of nonassociation from International Federation of Professional and Technical Engineers, Local 17, AFL-CIO, under RCW 41.56.122

ORDER

1. Thomas R. Leurquin is directed to make payments of union dues to the International Association of Professional and Technical Employees, Local 17.
2. 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, the City of Seattle shall thereafter remit any and all funds withheld and held in escrow from the pay of Thomas Leurquin to the International Association of Professional and Technical Employees, Local 17.
3. 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 4<sup>th</sup> day of August, 1997.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



PAUL T. SCHWENDIMAN, Examiner

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