

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the Petition of:)	CASE NO. 4517-E-83-831
MONTESANO POLICE DEPARTMENT)	
EMPLOYEES)	DECISION 2138-A - PECB
)	
Involving certain employees of:)	
CITY OF MONTESANO)	ORDER OF DISMISSAL
)	
)	
)	

William Brookshire, Representative, appeared on behalf of the petitioner, Montesano Police Department Employees.

Buzzard, Glenn, Henderson and Morris, by Daniel Glenn, appeared on behalf of the city of Montesano.

Edward Jacobson, Secretary-Treasurer, appeared on behalf of the intervenor, Teamsters Local 252.

The petition for investigation of a question concerning representation was filed with the Public Employment Relations Commission in the above-entitled matter on February 23, 1983.

The original petition sought a single bargaining unit, thus commingling law enforcement officers and communications personnel formerly represented in two separate bargaining units. Election agreements were filed and unit determination elections were conducted on May 13, 1983, giving the employees in each of the separate bargaining units an opportunity, under the laboratory conditions of a secret ballot election, to indicate their desires concerning unit determination. Although the unit determination

election was conclusive in the historical communications bargaining unit, a challenged ballot cast by Anthony Muma affected the outcome of the unit determination election in the historical law enforcement officer bargaining unit.¹ Anthony Muma had been discharged by the employer just prior to the election. Since the unit determination election was not conclusive, the representation ballots cast on the same date could not be tallied. No unfair labor practice charges were filed regarding Muma's discharge. The Commission decided to withhold hearing and decision on the challenged ballot while awaiting resolution of the discharge dispute under the city's civil service procedures, rather than having both the Commission and the parties spend the resources for an independent determination by the Commission of Muma's eligibility. The matter was additionally held in abeyance following appeal of the civil service decision to court, until such time as a final resolution would be forthcoming from the courts.

On January 3, 1985, the Montesano Police Department Employees filed a motion to strike the unit determination question that was posed by its original petition seeking a commingled bargaining unit of law enforcement officers and communications personnel. The other parties concurred in the motion. On January 21, 1985, the Executive Director ordered the unit determination election

¹ WAC 391-25-530(1) requires that unit determination elections be validated by a majority of those eligible to vote in the bargaining unit or voting group. If the majority of those eligible in both of the voting groups had voted in favor of a consolidated bargaining unit, the Commission would have proceeded with the tally of a representation election in the consolidated unit. Upon the failure of either unit determination election to validate, the consolidated unit would have been deemed inappropriate. There were five employees on the eligibility list in each voting group; the merger proposal needed three votes in each bargaining unit to validate.

stricken and all ballots cast on the unit determination question voided. City of Montesano, Decision 2138 (PECB, 1985). The same order dissolved the impound of ballots cast in the previous representation elections, and a tally of ballots was issued for each of the historical units, listing the votes cast on representation at the May 13, 1983 elections. Challenged ballots were sufficient in number to affect the results of the election in each bargaining unit.

The parties thereafter signed and filed new election agreements, which were accepted in light of the fact that it had been more than one year since the ballots were cast in the original election.² Secret ballot representation elections were held on February 13, 1985, in the separate bargaining units of communications employees and law enforcement officers. The results were conclusive in the communications unit and "Montesano Police Department Employees" was certified, in Decision 2203-PECB, as the exclusive bargaining representative of the communications bargaining unit. The representation election among the law enforcement personnel was inconclusive, due to the fact that a challenged ballot cast by Muma was again sufficient to affect the outcome.

On March 12, 1986, Montesano Police Department Employees filed a new petition with the Commission, seeking certification as the exclusive bargaining representative of the law enforcement officers.³ A secret ballot election was conducted on April 29, 1986. That same day, all parties were served with a tally of ballots showing the results of the election to be conclusive

² The election agreement for the communications personnel bargaining unit was assigned a separate case number as Case No. 5685-E-85-1018.

³ Case No. 6281-E-86-1117.

favoring the petitioner therein. The certification in that case, Decision 2452 - PECB, was issued on May 7, 1986.

The issuance of the final certification for the bargaining unit of law enforcement officers in Case No. 6281-E-86-1117 resolves the question concerning representation in the law enforcement officer bargaining unit and carries with it a one year "certification bar". Accordingly, the conclusive result in that more recent case causes the captioned case to become moot.

NOW, THEREFORE, IT IS

ORDERED

The petition for investigation of a question concerning representation filed in Case Number 4517-E-83-831 is dismissed as moot.

DATED at Olympia, Washington, this 13th day of May, 1986.

PUBLIC EMPLOYMENT
RELATIONS COMMISSION



MARVIN L. SCHURKE
Executive Director

This Order may be appealed by filing timely objections with the Commission pursuant to WAC 391-25-590.