

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

JAY A. SCHWARTZMILLER,)	
)	
Complainant,)	CASE 12294-U-96-2904
)	
vs.)	DECISION 5543 - PECB
)	
WASHINGTON STATE PATROL,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
)	

The complaint charging unfair labor practices was filed in the above-entitled matter on January 25, 1996. The allegations of the complaint center around the termination of Jay A. Schwartzmiller's employment on January 17, 1996.

The matter came before the Executive Director for processing pursuant to WAC 391-45-110,¹ and a preliminary ruling letter issued on March 27, 1996, pointed out certain defects with the complaint, as filed. The complainant was given 14 days in which to file and serve an amended complaint, or face dismissal of the case for failure to state a cause of action.

The complainant subsequently made a telephonic request for an extension of the date to file and serve an amended complaint, based on a claim that he had moved his residence and did not receive the preliminary ruling letter until April 10, 1996. The Executive Director extended the time for an amended complaint to April 30,

¹ At this state of the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

1996. Nothing further has been heard or received from the complainant.

The complaint alleges that Schwartzmiller was hired by the Washington State Patrol on May 13, 1994, and that he was stationed at the Governor's Mansion for approximately 14 months prior to his attending academy training from July 5 through November 22, 1995. After completing the academy training, he was given a two-month assignment in Bellingham, a requirement for graduation. The complaint alleged that, prior to graduation, he was called to a meeting with a review board on January 16, 1996. He contends that he was not given an opportunity to defend himself against the accusations made about him and his performance by other State Patrol officers, who testified before the review board in his absence. He further alleged that the decision to terminate his employment was "... determined before I ever entered the room."

The name "Public Employment Relations Commission" is sometimes interpreted as implying a broader scope of authority than is actually conferred upon the agency by statute. The Commission's jurisdiction is limited to the resolution of collective bargaining disputes between the employers, employees, and unions. The agency does not have general authority to resolve each and every dispute that might arise in public employment. In the case of the Washington State Patrol, the Commission's jurisdiction is further limited to matters concerning "officers appointed under RCW 41.41.020".

In this case, the complaint did not specifically identify alleged conduct constituting an unfair labor practice by the employer or the union, nor did the correspondence received from the complainant provide any information linking the termination of his employment with any organizing or collective bargaining activity protected by Chapter 41.56 RCW. There was no information regarding any attempts by the complainant to have his termination reviewed through a

grievance procedure in a collective bargaining agreement, and a letter from counsel for the Washington State Patrol Troopers Association indicates that "trooper cadets" are excluded from the coverage of the collective bargaining agreement between that organization and the employer.

The Commission does not assert jurisdiction to remedy violation of collective bargaining agreements through unfair labor practice provisions of the statute. City of Walla Walla, Decision 104 (PECB, 1976). Nor does the Commission assert jurisdiction over "breach of duty of fair representation" claims arising exclusively out of the processing of contractual grievances. Mukilteo School District (Public School Employees of Washington), Decision 1381 (PECB, 1982).


NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-captioned matter is DISMISSED.

Issued at Olympia, Washington, on the 23rd day of May, 1996.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency unless appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.