

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

STATE – CORRECTIONS, Employer.	
JASON PARKER, Complainant,	CASE 128894-U-17
vs.	DECISION 12736 - PSRA
TEAMSTERS LOCAL 117, Respondent.	ORDER OF DISMISSAL

On April 12, 2017, Jason Parker (complainant) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Teamsters Local 117 (union) as respondent. The employer, Washington State Department of Corrections, is not a party to this complaint. However, agency docketing procedures require the use of the employer's name to establish jurisdiction.

The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on May 19, 2017, indicated that it was not possible to conclude that a cause of action existed at that time. The complainant was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the case.

No further information has been filed by the complainant. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

¹ At this stage 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.

DISCUSSION

The allegations of the complaint concern union interference with employee rights in violation of RCW 41.80 by:

1. Since July 29, 2016, failing to force the employer to comply with due process requirements of *Loudermill v Cleveland Board of Education* when it was deciding whether to terminate Jason Parker's employment.
2. By deprivation of Parker's 14th amendment rights.
3. Violations of the collective bargaining agreement.

The Commission only has the authority to enforce the Washington State's collective bargaining laws. The first two allegations raised in the complaint concern constitutional issues that are not within the Commission's jurisdiction. Allegations concerning violations of *Loudermill* rights and other constitutional issues, such as alleged violations of the 14th amendment, must be filed in the court system. Regarding the third allegation, the Commission does not police violations of collective bargaining agreements (CBA). Employees should address contract violations through the grievance procedures of the CBA.

The complaint does not describe a breach of duty of fair representation by the union or any other cause of action against a labor organization under RCW 41.80. The complaint is dismissed for failure to state a cause of action.

Loudermill Rights and other Constitutional Issues

The complaint alleges that the employer did not provide due process to Parker before depriving him of the property rights to his job as required by *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985) (*Loudermill*). The Commission does not assert jurisdiction through the unfair labor practice provisions to enforce "due process" rights emanating from the federal and/or state constitutions. *City of Tacoma*, Decision 3346-A (PECB, 1990). The court system has jurisdiction over constitutional issues such as alleged violations of *Loudermill*, 14th amendment rights, or other constitutional issues.

Alleged Violation of CBA

The complaint alleges violations of the parties' CBA. The Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute. *City of Walla Walla*, Decision 104 (PECB, 1976). Allegations that the employer and/or union violated a CBA are not matters that the Commission can address. Remedies for contract violations must be sought through the grievance and arbitration machinery within the contract, or through the courts. Thus, the portions of the complaints alleging violations of the CBA by the employer do not state causes of action with the Public Employment Relations Commission. *Lake Washington School District*, Decision 6312 (EDUC, 1998).

Duty of Fair Representation


The complaint describes that the union is actively representing Parker in an ongoing grievance proceeding. It has long been established that the Commission does not 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). While a union does owe a duty of fair representation to bargaining unit employees with respect to the processing of grievances, such claims must be pursued before a court which can assert jurisdiction to determine (and remedy, if appropriate) any underlying contract violation. *State – Corrections (Teamsters Local 313)*, Decision 8581 (PSRA, 2004).

ORDER

The complaint charging unfair labor practices in the above captioned matter is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 21st day of June, 2017.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


JESSICA J. BRADLEY, Unfair Labor Practice Manager

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

112 HENRY STREET NE SUITE 300
PO BOX 40919
OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON
MARK E. BRENNAN, COMMISSIONER
MARK R. BUSTO, COMMISSIONER
MIKE SELLARS, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 06/21/2017

DECISION 12736 - PSRA has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

BY: DEBBIE BATES

CASE NUMBER: 128894-U-17

EMPLOYER: STATE - CORRECTIONS

REP BY: FRANKLIN PLAISTOWE
OFFICE OF FINANCIAL MANAGEMENT
2ND FL RAAD BLDG
128 10TH AVE SW
PO BOX 47500
OLYMPIA, WA 98504
labor.relations@ofm.wa.gov
(360) 407-4140

PARTY 2: JASON PARKER

REP BY: JASON PARKER
253 PEARMAIN AVE
WALLA WALLA, WA 98362
jwparker33@gmail.com
(509) 240-6085

PARTY 3: TEAMSTERS LOCAL 117

REP BY: JOHN SCEARCY
TEAMSTERS LOCAL 117
14675 INTERURBAN AVE S STE 307
TUKWILA, WA 98168-4614
john.scearcy@teamsters117.org
(206) 441-4860