

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

ELI VINJE,

Complainant,

vs.

WASHINGTON STATE DEPARTMENT OF  
CORRECTIONS,

Respondent.

CASE 138318-U-24

DECISION 13812 - PSRA

ORDER OF DISMISSAL

*Eli Vinje*, the complainant.

*J. Shawn Horlacher*, Assistant Attorney General, Attorney General Robert W. Ferguson, for the Washington State Department of Corrections.

On February 1, 2024, Eli Vinje (complainant) filed an unfair labor practice complaint against the Washington State Department of Corrections. The complaint was reviewed under WAC 391-45-110.<sup>1</sup> A deficiency notice issued on February 23, 2024, notified Vinje that a cause of action could not be found at that time. Vinje 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 Vinje.

ISSUE

The complaint alleges the following:

Unidentified unfair labor practices.

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<sup>1</sup> At this stage of the proceedings, all of the facts alleged in the complaint or amended 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.

The complaint is dismissed for failure to state a cause of action within the Commission's jurisdiction.

### BACKGROUND

Vinje was a Corrections and Custody Officer at the Washington State Department of Corrections (employer) and was represented by Teamsters Local 117 (union). Vinje's complaint includes several attachments but did not include a statement of facts. One of the attachments was a January 25, 2023, letter sent to Vinje by the employer. The letter included three relevant notifications. First, it appointed Vinje to a Corrections and Custody Officer 2 (Correctional Peace Officer 2) position effective February 1, 2023. Second, it notified Vinje that the position included a 12-month probation period that may be extended for documented training requirements. Finally, the letter informed Vinje that an inability to successfully complete any aspect of the probationary period would result in his termination from state service within five working days.

Another attachment was a September 1, 2023, employer sent letter notifying Vinje that he was being terminated from his probation appointment effective September 1, 2023. The letter stated that Vinje could not file a grievance related to the termination. However, the letter also stated that Vinje could request review of the termination by the Secretary of the Department or their designee and provided a timeframe for that process. On September 5, 2023, the union requested review of Vinje's termination through the secretary of the department.

Finally, Vinje included a July 9, 2019, letter from the Department of Social and Health Services that certified Vinje as an individual with a documented disability identified by the Washington State Division of Vocational Rehabilitation policy. Because the complaint lacks a statement of facts it is unclear how this letter fits into Vinje's complaint.

## ANALYSIS

### *Applicable Legal Standard*

The role of PERC is to resolve labor relations disputes between unions, employers, and on occasion individual employees. When a complaint is filed with the agency, PERC does not investigate the filing party's claim. Rather, agency staff will review the complaint to determine if it states a cause of action and if it does the case will be forwarded to a PERC hearing examiner who serves as an administrative law judge. When an individual employee files a complaint with PERC, that individual takes on the responsibility for presenting their case before the agency (although the individual may hire an attorney to represent them).

A complaint must comply with the agency's filing rule, WAC 391-45-050. The complaint must contain a statement of facts with numbered paragraphs. The statement of facts should include:

- Specific allegations that constitute a violation of state law and required elements;
- Times, dates, and places of occurrences and the names of the participants in a chronological order that explains the alleged unfair labor practice;
- Whether a related grievance has been filed and its status;
- A description of the remedies requested.

These requirements are necessary to put the respondent on notice of the alleged unfair labor practice and to allow the respondent to reference specific allegations within the complaint when filing an answer.

### *Application of Standard*

In this case Vinje only submitted the ULP complaint form and the above-referenced letters. To determine if a violation of Washington collective bargaining laws had occurred, Vinje needed to submit a statement of facts that described the actions that occurred that could constitute an unfair labor practice within PERC's jurisdiction. Because Vinje failed to submit a statement of facts with

his original complaint and failed to file an amended complaint that cured this defect, the complaint must be dismissed.

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 9th day of April, 2024.

PUBLIC ~~EMPLOYMENT~~ RELATIONS COMMISSION



DARIO DE LA ROSA, Unfair Labor Practice Administrator

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.



# RECORD OF SERVICE

ISSUED ON 04/09/2024

DECISION 13812 - PSRA has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASE 138318-U-24

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