

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS
BOARD

In the Matter of the)
 CARSON CITY SHERIFF'S EMPLOYEES ASSOCIATION)
 Complainants,)
 vs.) No. A1-045319
 SHERIFF AND COUNTY OF CARSON CITY,)
 Respondents.)

D E C I S I O N

We held a hearing on October 5, 1978, in the above matter; the hearing was properly noticed and posted pursuant to Nevada's Open Meeting Law. At the conclusion of the hearing, we advised the parties of the general feelings of the Board on the issues presented. This written decision is prepared in conformity with NRS 233B.125, which requires that our final decision contain Findings of Fact and Conclusions of the Law separately stated.

Prior to hearing testimony on the complaint itself, the Board heard argument on a motion by the Respondent to dismiss or, in the alternative, for summary judgement. The Board denied the motion and proceeded to hear testimony on the complaint.

The incidents giving rise to this complaint, as established by testimony and evidence at the hearing on October 5, 1978, involve a series of actions taken by the Sheriff of Carson City against certain of his subordinates, who were members of the Complainant's organization (hereafter referred to as the Association). These actions were apparently motivated by the attempt by the Association to affiliate with Local No. 165 of the Teamsters Union and the membership of Sergeants of the Department in the Association.

Apparently, the Sheriff had misinterpreted the provisions of NRS 288.170 regarding supervisory personnel and their right to belong to an employees' association, as opposed to a bargaining unit made up of subordinates. There existed, at this time, separate bargaining units within the Department for supervisory and non-supervisory personnel.

On July 29, 1978, the Sheriff suspended Deputy Patrick J. Glancy, allegedly for violating inter-departmental rule 4.02.050, which prohibited members of the Department from publicly criticizing "an act or member of the Department.....". This action came after Glancy released a statement to KOLO TV in Reno that was critical of certain practices and policies of the Respondent Sheriff and his administration.

On August 28, 1978, the Sheriff demoted Officer Greg Biggins from his position as Chief of Detectives because he refused to resign his membership in the Complainant's organization. This final action by the Sheriff prompted the filing of the complaint, which is the subject of this decision.

In their complaint filed with the Board on August 8, 1978, the Association alleged that the Respondents had engaged in a series of prohibited practices, previously referred to, in violation of NRS 288.170, Sections 1(a), 1(b), 1(c), 1(e) and 1(f). The complainants specifically alleged that:

- (a) The Respondents had interfered with the Complainant's rights by interrogating members of the Association as to their union activities.
- (b) The Respondents had discriminated against employees with respect to tenure and conditions

of employment by threatening to terminate, demote and otherwise alter conditions of employment of the officers and members of the Complainant's organization.

(c) The Respondents interfered with the administration of the Complainant's organization and attempted to influence and coerce members of the Association in selection of officers and voting on internal association affairs.

(d) The Respondents threatened to discharge employees who might file a complaint with the Local Government Employee-Management Relations Board.

(e) The Respondents bargained in bad faith by attempting to coerce the complainant's organization in its selection of representatives for the purpose of bargaining and the administration of its collective bargaining agreement.

(f) The Respondents bargained in bad faith by attempting to bypass the Complainant's organization and independently solicit grievances from individual employees.

The Respondents denied the allegations of the Complainant and the matter was brought before the Board for hearing.

In reaching its decision, as to division of expenses for the preparation and presentation of this case, the Board felt that the County of Carson City should not be penalized for

actions taken by the Sheriff, which were unilateral in nature and not necessarily with the concurrence of the County. Therefore, the Board arrived at its order as hereafter stated on division of costs.

On October 23, 1978, the Complainant filed a Supplemental Prohibited Practices complaint with the Board, alleging further harrasment and interference in their organizational business by the Sheriff. Specifically, they alleged that the Sheriff had willfully disciplined Deputy Richard Westover, a witness for the Complainant at the October 5 hearing, by demoting him, denying him sick leave, reducing comp time and annual leave. They requested that the Board hold a second evidentiary hearing on these new allegations and that a Cease and Desist Order be issued immediately. On October 26, 1978, the Board issued a Cease and Desist Order against the Respondents, which included directions to reinstate Officer Glancy and reimburse him for lost time, as well as returning Officer Biggins to his original post as Chief of Detectives.

The parties, subsequently, signed a Stipulation as to certain facts raised in the Supplemental Complaint in order to avoid the necessity for an evidentiary hearing on the facts. An affidavit was also submitted by the Respondent, Sheriff of Carson City, indicating that certain remedial action had been taken with regards to Deputy Richard Westover, which appeared to the Board, to resolve the dispute between the parties surrounding Westover's situation.

Since the Respondent has recognized that his actions, regarding Deputy Westover, were inappropriate and has attempted to remedy the situation by reinstating Deputy Westover and returning specific benefits due to him, the Board feels

that it is unnecessary to further address itself to the matter in this Decision.

FINDINGS OF FACT:

- (1) That the Carson City Sheriff's Employees Association is a local government employee organization.
- (2) That the County of Carson City is a local government employer.
- (3) That between July and August, 1978, the Sheriff of the Carson City Police Department directly and through certain of his subordinates did interfere with, restrain and coerce employees of the Carson City Sheriff's Department in the exercise of their rights guaranteed under NRS Chapter 288.
- (4) That between July and August, 1978, the Sheriff of the Carson City Sheriff's Department directly and through certain of his subordinates did interfere in the internal administration of the Carson City Sheriff's Employees Association;
- (5) That between July and August, 1978, the Respondents discriminated in regard to certain terms of and conditions of employment of certain members of Complainant's association in an effort to discourage membership in the Complainant's organization. Specifically, the Respondents

- (a) Advised persons holding the rank of Sergeant that they could not belong to the Complainant's organization and in fact caused the demotion of certain employees who would not resign from Complainant's organization.
 - (b) That the Respondents wrongfully demoted Officer Patrick Glancy because of his involvement with the Complainant's organization.
 - (c) That the Respondents improperly demoted Sergeant Greg Piggan from the position of Chief of Detectives, due to his involvement with the Complainant's organization, as well as his involvement in the release of certain information to the local press that was allegedly critical of the Carson City Sheriff's Department.
- (6) That the Respondent, Sheriff of Carson City, wrongfully attempted to influence the decision of members of the Complainant's organization in the selection of Teamster's Union Local No. 165 as its representative for future collective bargaining on employment contracts.

CONCLUSIONS OF LAW

1. That the Local Government Employee-Management Relations Board possesses original jurisdiction over the parties and subject matter of this complaint.

2. That the Carson City Sheriff's Employees Association, is a local government employee organization within the term, as defined in NRS 288.040.

3. That the County of Carson City, through the Sheriff's Department of Carson City, is a local government employer within the term as defined in NRS 288.060.

4. That the interference by the Sheriff of Carson City in the exercise of his subordinate's rights under the provisions of NRS 288.270 is a prohibitive practice.

We, therefore, direct the Respondents to:

(1) Immediately cease and desist and, in the future, refrain from interfering, restraining or coercing employees of the Carson City Sheriff's Department in the exercise of their rights guaranteed under NRS Chapter 288.

(2) Immediately cease and desist and, in the future, refrain from interfering in the internal administration of the Carson City Sheriff's Employees Association.

(3) Immediately cease and desist and, in the future, to refrain from discrimination in regard to any term or condition of employment in an attempt to discourage membership.

(4) Immediately cease and desist and, in the future, refrain from advising persons holding the rank of Sergeant that they may not belong to the Carson City Sheriff's Employees Association.

(5) Immediately establish whether or not the issue of dissolution of the position of Corporal in the Sheriff's Department remains contested between the parties and if so, take steps to resolve this matter within the Department.

(6) That the parties shall pay their own costs, including attorney's fees, for presenting this matter to the Board, except that the Respondents shall pay the cost for

the Court Reporter utilized at the hearing on this matter on October 5, 1978, and the cost of the preparation of the original and two copies of the transcript and

(7) The directives set forth herein represent all of the directives issued by the Board to the respective parties in this matter. Therefore, the Cease and Desist Order previously issued by the Board on October 26, 1978, is hereby vacated.

(8) Further, the motion for award of costs and fees filed by Complainant's Counsel on January 26, 1979, is denied.

(9) That this order be posted for a period of 60 days, commencing February 16, 1979, in a prominent location within the Carson City Sheriff's Office so all employees may have the opportunity to read it and be apprised of its contents.

Dated this 13th day of February, 1979.

Dorothy Eisenberg
Dorothy Eisenberg, Board Chairman

John T. Gojack
John T. Gojack, Board Vice Chairman

Carole Vilardo
Carole Vilardo, Board Member