

9 PERC ¶ 16039

CALIFORNIA STATE UNIVERSITY

California Public Employment Relations Board

Howard O. Watts, Charging Party, v. California State University, Respondent.

Docket Nos. LA-PN-60-H, LA-PN-61-H, LA-PN-62-H, LA-PN-63-H, LA-PN-64-H, LA-PN-65-H, LA-PN-66-H

Order No. 468-H

December 27, 1984

Before Tovar, Jaeger and Burt, Members

Public Notice Complaint -- Dismissal -- Extension Of Time To Appeal Denied --

07.51, 71.71Public notice complainant's request for extension of time to file appeals from dismissals of numerous public notice complaints was denied. Complainant's alleged physical ailments and heavy litigation schedule did not constitute "good cause" for extension of time.

APPEARANCES:

Howard O. Watts on his own behalf.

DECISION

BURT, Member: Howard O. Watts appeals the denial for failure to state good cause by the executive director of the Public Employment Relations Board (PERB or Board) of his request for an extension of time in which to file appeals of the dismissals of his public notice complaints in LA-PN-60-H through LA-PN-66-H.

For the reasons set forth below, we affirm the executive director's denial of Watts' request.

FACTS

In April and May of 1983, Howard O. Watts filed the seven above-referenced public notice complaints against the California State University (CSU). The complaints were first placed in abeyance for two months at Watts' request and then dismissed by the regional attorney on April 10, 1984.¹ On April 27, 1984, Watts filed a timely request for an extension of time to appeal the dismissals. He offered the following reasons for his request: (1) he had a number of cases that he was either filing or appealing and did not, therefore, have time to work up the appeals in the above-referenced cases before the filing deadline; and (2) he is disabled and suffers from a variety of physical ailments. Watts' request for an extension of time was opposed by CSU. On May 4, 1984, his request for an extension was denied for failure to state good cause.

DISCUSSION

Pursuant to PERB Regulation 32132,² a timely request for an extension of time to file a paper with PERB may be granted for "good cause." PERB has not previously directly addressed what may constitute the "good cause" required in this instance other than indicating that it is a lower standard than the "extraordinary circumstances" required to excuse a late filing. We feel the proper approach is to weigh the nature of the reasons asserted to be "good cause" against the length of the delay and the possible prejudice to the opposing party. In general, for "good cause" to be found, a party's request for an extension should be based on circumstances that are unanticipated or beyond the party's control.

In the instant case, we note that Mr. Watts' physical disabilities are apparently longstanding ailments and that, despite his uncertain physical condition, he manages to file complaints and appeals, appear at school board meetings to express his views, and participate in informal conferences with PERB and school officials. Thus, it is clear that any problems resulting from his physical infirmities are neither unanticipated nor insuperable; Mr. Watts has successfully managed to pursue considerable legal action in the past despite his continuing ailments. Under these circumstances, we do not feel an exception to the normal timeliness for filing appeals should be made because of his physical problems.

With regard to Mr. Watts' admittedly heavy workload, we note that he voluntarily chooses to appeal almost every dismissal or administrative order related to his complaints, regardless of the merits. Clearly, Mr. Watts' workload is entirely self-inflicted and under his personal control. We note that Watts has been warned several times about his penchant for filing frivolous and nonmeritorious complaints and appeals that address the same issues as complaints previously filed by him.³ For these reasons, we feel his workload is not sufficient "good cause" to justify an extension of time. This latter consideration also bears on the question of prejudice to respondent CSU; a significant burden is obviously imposed on CSU when it must continually prepare and defend against such appeals.

ORDER

For the above reasons, the denial of Howard O. Watts' request for an extension of time is AFFIRMED.

Members Tovar and Jaeger joined in this Decision.

¹ In the dismissal letter, the regional attorney notes that these complaints all make "one or more legal assertions already made in cases LA-PN-48-H and LA-PN-50, which have been dismissed by this office without leave to amend on March 14, 1984 and March 21, 1984. The instant cases are distinguishable from the former ones only on an immaterial factual basis, i.e., they allege the same violation(s) occurred at different meetings of the respondent, California State University. . . . "

Since then, the dismissals of cases LA-PN-48-H and LA-PN-50-H have been summarily affirmed by PERB on appeal. See *California State University (Watts)* (12/7/84) PERB Decision No. 453-H and *California State University (Watts)* (12/10/84) PERB Decision Nos. 456-H and 457-H.

² PERB Regulation 32132(a) provides in pertinent part:

(a) A request for an extension of time within which to file any document with the Board itself shall be in writing and shall be filed at the headquarters office at least three days before the expiration of the time required for filing. The request shall indicate the reason for the request and, if known, the position of each other party regarding the extensions. . . . Extensions of time may be granted by the Board itself or an agent designated by the Board itself for good cause only.

³ See, for example, *Los Angeles Unified School District (Watts)* (2/22/82) PERB Decision No. 181a and *United Professors of California (Watts)* (8/16/84) PERB Decision No. 398-H.
