

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**

ARMOND DOVAL BRADFORD,

Charging Party,

v.

CALIFORNIA STATE EMPLOYEES
ASSOCIATION,

Respondent.

Case No. SA-CO-232-S

PERB Decision No. 1421-S

February 26, 2001

Appearance: Armond Doval Bradford, on his own behalf.

Before Amador, Baker and Whitehead, Members.

DECISION

BAKER, Member: This case is before the Public Employment Relations Board (Board) on appeal by Armond Doval Bradford (Bradford) from the Board agent's dismissal (attached) of his unfair practice charge.

The charge alleged that the California State Employees Association breached its duty of fair representation in violation of Section 3519.5 of the Ralph C. Dills Act (Dills Act).¹

¹ The Dills Act is codified at Government Code section 3512 et seq. Dills Act section 3519.5 provides, in relevant part:

It shall be unlawful for an employee organization to:

(b) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or

The Board has reviewed the entire record in this case, including the unfair practice charge, the warning and dismissal letters and Bradford's appeal. The Board finds the warning and dismissal letters to be free from prejudicial error and adopts them as the decision of the Board itself.

ORDER

The unfair practice charge in Case No. SA-CO-232-S is hereby DISMISSED WITHOUT LEAVE TO AMEND.

Members Amador and Whitehead joined in this Decision.

otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.

September 29, 2000

Armond Bradford
PO Box 1156
Davis, California 95617-1156

Re: Armond Doval Bradford v. California State Employees Association
Unfair Practice Charge No. SA-CO-232-S
DISMISSAL LETTER

Dear Mr. Bradford:

The above-referenced unfair practice charge was filed with the Public Employment Relations Board (PERB or Board) on July 21, 2000. Your charge alleges that the California State Employees Association (CSEA or Union) violated the Ralph C. Dills Act (Dills Act)¹ by failing to meet its duty of fair representation.

I indicated to you in my attached letter dated September 22, 2000, that the above-referenced charge did not state a prima facie case. You were advised that, if there were any factual inaccuracies or additional facts which would correct the deficiencies explained in that letter, you should amend the charge. You were further advised that, unless you amended the charge to state a prima facie case or withdrew it prior to September 29, 2000, the charge would be dismissed.

I have not received either an amended charge or a request for withdrawal. Therefore, I am dismissing the charge based on the facts and reasons contained in my September 22, 2000 letter.

Right to Appeal

Pursuant to PERB Regulations², you may obtain a review of this dismissal of the charge by filing an appeal to the Board itself within twenty (20) calendar days after service of this dismissal. (Regulation 32635(a).) Any document filed with the Board must contain the case

¹ The Dills Act is codified at Government Code section 3512 et seq. The text of the Dills Act and the Board's Regulations may be found on the Internet at www.perb.ca.gov.

² PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq. Copies of the Regulations may be purchased from PERB's Publications Coordinator, 1031 18th Street, Sacramento, CA 95814-4174, and the text is available at www.perb.ca.gov.

name and number, and the original and five (5) copies of all documents must be provided to the Board.

A document is considered "filed" when actually received before the close of business (5 p.m.) on the last day set for filing or when mailed by certified or Express United States mail, as shown on the postal receipt or postmark, or delivered to a common carrier promising overnight delivery, as shown on the carrier's receipt, not later than the last day set for filing. (Regulations 32135(a) and 32130.)

A document is also considered "filed" when received by facsimile transmission before the close of business on the last day for filing together with a Facsimile Transmission Cover Sheet which meets the requirements of Regulation 32135(d), provided the filing party also places the original, together with the required number of copies and proof of service, in the U.S. mail. (Regulations 32135(b), (c) and (d); see also Regulations 32090 and 32130.)

The Board's address is:

Public Employment Relations Board
Attention: Appeals Assistant
1031 18th Street
Sacramento, CA 95814-4174
FAX: (916) 327-7960

If you file a timely appeal of the refusal to issue a complaint, any other party may file with the Board an original and five copies of a statement in opposition within twenty (20) calendar days following the date of service of the appeal. (Regulation 32635(b).)

Service

All documents authorized to be filed herein must also be "served" upon all parties to the proceeding, and a "proof of service" must accompany each copy of a document served upon a party or filed with the Board itself. (See Regulation 32140 for the required contents and a sample form.) The document will be considered properly "served" when personally delivered or deposited in the first-class mail, postage paid and properly addressed. A document filed by facsimile transmission may be concurrently served via facsimile transmission on all parties to the proceeding. (Regulation 32135(c).)

Extension of Time

A request for an extension of time, in which to file a document with the Board itself, must be in writing and filed with the Board at the previously noted address. A request for an extension must be filed at least three (3) calendar days before the expiration of the time required for filing the document. The request must indicate good cause for and, if known, the position of each other party regarding the extension, and shall be accompanied by proof of service of the request upon each party. (Regulation 32132.)

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Final Date

If no appeal is filed within the specified time limits, the dismissal will become final when the time limits have expired.

Sincerely,

ROBERT THOMPSON
Deputy General Counsel

By _____
Bernard McMonigle
Regional Attorney

Attachment

cc: Gary Reynolds, Chief Counsel

BMC:cke

September 22, 2000

Armond D. Bradford
PO Box 1156
Davis, California 95617-1156

Re: Armond Doval Bradford v. California State Employees Association
Unfair Practice Charge No. SA-CO-232-S
WARNING LETTER

Dear Mr. Bradford:

The above-referenced unfair practice charge was filed with the Public Employment Relations Board (PERB or Board) on July 21, 2000. Your charge alleges that the California State Employees Association (CSEA or Union) violated the Ralph C. Dills Act (Dills Act)¹ by failing to meet its duty of fair representation.

Your charge reveals the following.

In December 1999, you submitted a complaint to the State Personnel Board (SPB) because the Department of General Services (DGS) had denied you reasonable accommodations. You received no support for this complaint from CSEA. On January 28, 2000, you received a letter in which DGS tried to use a rejection from probation to stop you from pursuing your complaints. CSEA did not make a counter proposal or object to this tactic. On February 3, 2000, you forwarded to CSEA a list of reasons why the DGS settlement proposal was unacceptable. In February, you also forwarded a witness list to CSEA and filed an unfair practice charge with PERB against DGS. You requested help with this charge from CSEA, but did not receive any support.

In February 2000, you had requested financial assistance from the Civil Division of CSEA, but you were denied such assistance to help in the complaints you had with DGS.

In a letter of February 29, 2000, you asked DPA attorney Wendi Ross for a waiver of a time limit for filing a grievance. You received no help or support with this request. On April 24, 2000, at your request, Lois Kugelmass withdrew on CSEA behalf as your representative in your rejection from probation appeal before the SPB. Also in April 2000, you received a letter from the SPB which addressed both your denial of a reasonable accommodation and your appeal of a rejection while on probation. CSEA did not support or help you with the denial of reasonable accommodation appeal.

¹ The Dills Act is codified at Government Code section 3512 et seq. The text of the Dills Act and the Board's Regulations may be found on the Internet at www.perb.ca.gov.

In a letter dated April 25, 2000, you requested that Ms. Kugelmass provide you with a copy of documents related to your case. She responded to your request. On June 7, 2000, you requested other information from Frank Guilelmino, general manager of CSEA. He stated in a letter of June 12, 2000 that CSEA does not keep the type of information that you requested. In a letter dated June 26, 2000, you requested additional information. At the time of filing the charge, you had received no response.

The duty of fair representation does not extend to aspects of the employer-employee relationship beyond the collective bargaining areas in which the union has an exclusive right to act. Thus, the duty is limited to representation of employees in the collective bargaining setting and in a grievance procedure contained in a collective bargaining agreement. (San Francisco Classroom Teachers Association, CTA/NEA (Chestangúe) (1985) PERB Decision No. 544; Los Rios College Federation of Teachers, Local 2279, CFT/AFT, AFL-CIO (Deglow) (1993) PERB Decision No. 992.) With respect to the SPB actions and the filing of an unfair practice charge, you have indicated that you are dissatisfied with CSEA's actions. However, in this matter CSEA owes no duty of fair representation and accordingly, these allegations must be dismissed.

You indicated that the Union did not assist you with your request of a waiver for filing a grievance in February. A breach of the duty of fair representation occurs when the union's conduct toward a member of the bargaining unit is "arbitrary, discriminatory or in bad faith." (Rocklin Teachers Professional Association (Romero) (1980) PERB Decision No. 124.) An employee must demonstrate sufficient facts showing how or in what manner the union's actions were without a rational basis or devoid of honest judgment. (Reed District Teachers Association, CTA/NEA (Reyes) PERB Decision No. 332.) You have not demonstrated sufficient facts that would demonstrate that the Union's actions with respect to requesting the grievance waiver was "without a rational basis or devoid of honest judgment."

Your charge also discusses several information requests you have made from the Union. One of your requests was responded to by Ms. Kugelmass. After requesting additional information, you were informed that the information did not exist. Your letter of June 26th, sent shortly before filing the charge on July 21, 2000, requested that CSEA provide you with information similar in nature to that which you requested on June 7th. The information you requested relates to expenses paid by CSEA associated with various types of litigation that it may have taken between 1996 and the present against DGS. As discussed, CSEA's duty of fair representation extends to contract negotiations and grievance representation. I am aware of no other duty under the Dills Act which would require that CSEA supply the information requested. Accordingly, the denial of this information does not appear to violate the Union's duty of fair representation and this allegation must also be dismissed.

For these reasons the charge, as presently written, does not state a prima facie case. If there are any factual inaccuracies in this letter or additional facts which would correct the deficiencies explained above, please amend the charge. The amended charge should be prepared on a standard PERB unfair practice charge form, clearly labeled First Amended

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Charge, contain all the facts and allegations you wish to make, and be signed under penalty of perjury by the charging party. The amended charge must have the case number written on the top right hand corner of the charge form. The amended charge must be served on the respondent's representative and the original proof of service must be filed with PERB. If I do not receive an amended charge or withdrawal from you before September 29, 2000, I shall dismiss your charge. If you have any questions, please call me at the above telephone number.

Sincerely,

Bernard McMonigle
Regional Attorney

BMC:cke