

**STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
LABOR RELATIONS DIVISION**

In the Matter of:

SERVICE EMPLOYEES INTERNATIONAL UNION,  
LOCAL 502,

Respondent-Labor Organization,

Case No. CU98 K-54

-and-

CHARLES THOMAS,  
An Individual Charging Party.

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APPEARANCES:

Sachs, Waldman, O'Hare, Helveston, Bogas & McIntosh, P.C., by George H. Kruszewski, Esq., for Respondent

Charles Thomas in pro per

**DECISION AND ORDER**

On September 16, 1999, Administrative Law Judge Roy L. Roulhac issued his Decision and Recommended Order in the above matter finding that Respondent did not violate Section 10 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, and recommending that the Commission dismiss the charges and complaint.

The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of the Act.

The parties have had an opportunity to review the Decision and Recommended Order for a period of at least 20 days from the date of service and no exceptions have been filed by any of the parties.

**ORDER**

Pursuant to Section 16 of the Act, the Commission adopts the recommended order of the Administrative Law Judge as its final order.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Maris Stella Swift, Commission Chair

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Harry W. Bishop, Commission Member

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C. Barry Ott, Commission Member

Date: \_\_\_\_\_

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An Individual - Charging Party

APPEARANCES:

For Respondent:

Sachs, Waldman, O'Hare, Helveston, Bogas &  
McIntosh, P.C.

By George H. Kruszewski, Esq.

For Charging Party:

Charles Thomas

DECISION AND RECOMMENDED ORDER  
OF  
ADMINISTRATIVE LAW JUDGE

Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 *et seq.*, MSA 17.455 *et seq.*, this case was heard in Detroit, Michigan on March 29, 1999, by Administrative Law Judge Roy L. Roulhac for the Michigan Employment Relations Commission (MERC). The proceedings were based upon a November 12, 1998, unfair labor practice charge filed by the Charging Party, Charles Thomas against Respondent Service Employees International Union, Local 502. Based upon the record, and a post-hearing brief filed by Respondent on June 1, 1999, I make the following findings of fact and conclusions of law, and issue a recommended order pursuant to Section 16(b) of PERA:

The Unfair Labor Practice Charges:

The charge reads:

On the date of Sep 25, 1998 I (Charles Thomas Jr.) was employed by the Wayne County Sheriff Dept. At or around 10:00 AM I was called over to internal affairs for questioning. When I arrived I noticed a union steward by the name of Slivester [sic] Evans awaiting my arrival. Detective Heard begin to ask me questions about some allegations that he claimed to have heard about. Due to the existent of the allegations I ask if I needed my lawyer present. Both detective Heard and union steward Evans

said no, I had Local 502 representing me. After a few events the Sheriffs dep. gave me the option to resign or be fired on this same date of Sept, 25. I asked Mr. Evans what should I do, he stated "I don't know what they have on you, but if it was me I would resign rather than to be fired". So I resign. After resigning detective Heard came in to the room with a sheet of paper which he said I had to sign. It stated that, I could not go to another law enforcement dep. I looked at Mr. Evans to respond but he didn't. So I asked Mr. Evans what should I do and again he said nothing. I feel that I was poorly represented by Local 502. I don't blame Mr. Evans because he said he didn't know anything to say cause he know nothing about what was going. However I do blame Local 502 because I feel that because of their failure to represent me fairly my future in law enforcement has been taken from me.

On January 19, 1999, Respondent filed an answer which denied the allegations set forth in the charge.

#### Finding of Facts and Conclusions of Law:

Charging Party Charles Thomas has been employed as a deputy with the Wayne County Sheriff's Department and a member of Respondent SEIU, Local 502, since January 1996. On September 25, 1996, Thomas was taken to the department's Internal Affairs unit where he was searched by a an internal affairs (IA) detective. A search of Thomas uncovered four professional passes which permit attorneys, parole officers, police officers and other professionals to make contact visits with inmates. One of the passes was completed. It contained an inmate's name and Sgt. Sylvester Evans' forged signature. Evans, the Union steward who was representing Thomas was responsible for issuing professional passes, unlike Thomas, who had no such authority. Thomas' locker and vehicle were then searched for drugs by a dog. The dog went to Thomas' locker and stopped, but no drugs were found.

During a tape-recorded interrogation of Thomas about why he had the passes, Thomas explained that he had taken a pass home to explain his job duties to his wife and to show her how a completed pass looked. He explained that he did not know the inmate whose name appeared on the pass, but had arbitrarily selected a name. The IA detective turned the tape recorder off and terminated the interview. He offered Thomas the option of resigning or being terminated.

According to Thomas, he asked Evans, his union steward, what he should do and Evans told him that although he did not know what was going on, he would rather resign than be terminated. Evans, however, denied Thomas version of events and claims the Thomas told him that he would resign rather than put his family through this process again.<sup>1</sup> Thereafter, Thomas signed a resignation form and a second document which stated that he would not apply for employment with another law enforcement agency, and if he did, the circumstances of his resignation would be released. Thomas testified that before signing the second document, he looked at Evans, and when he did not receive

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<sup>1</sup>A short time earlier, Thomas had been acquitted on charges that he was in part responsible for an attack on an inmate. An IA investigation of the event was pending.

a response, signed it. According to Evans, before Thomas signed the form, a sergeant read it to him and asked if he understood it, and Thomas said he did.

Conclusions of Law:

To establish a violation of the duty of fair representation, the record must demonstrate that the Union's conduct toward the bargaining unit member was arbitrary, discriminatory, or in bad faith. *Vaca v Sipes*, 386 U.S. 171 (1967). "Bad faith" implies an intentional act or omission undertaken dishonestly or fraudulently. *Goolsby v City of Detroit*, 419 Mich 651, 679 (1984). Charging Party did not file a post-hearing brief, but indicated during the hearing that, "he felt that the Union should have said something to prevent me from having to sign this document" which would follow him the rest of his life.

I find that even if Thomas' version of the disputed facts are credited, his claim that the Union has violated its duty to him requires little comment. Thomas presented no evidence nor alleged that Evans' actions were in bad faith. He acknowledges in his charge that he didn't blame Evans because he did not know what was going on. I find that Evans' failure to dissuade Thomas from signing the document cannot be viewed as an omission undertaken dishonestly or fraudulently and, therefore, did not violate any right the Union may have owed Thomas.

Based on the above discussion, I recommend that the Commission issue the order set forth below:

Recommended Order

The unfair labor practice charges are hereby dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Roy L. Roulhac  
Administrative Law Judge

Dated: \_\_\_\_\_