

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

In the Matter of:
INTERNATIONAL UNION, UAW,
Respondent–Labor Organization,

Case No. CU05 G-030

- and -

MALCOLM MARTS,
An Individual Charging Party.

APPEARANCES:

Georgi-Ann Bargamian, Esq., Associate General Council, for the Labor Organization

Malcolm Marts, In Propria Persona

DECISION AND ORDER

On December 7, 2005, Administrative Law Judge Roy L. Roulhac issued his Decision and Recommended Order in the above matter finding that Respondent has not engaged in and was not engaging in certain unfair labor practices, and recommending that the Commission dismiss the charges and complaint as being without merit.

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

Nora Lynch, Commission Chairman

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____

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DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE ON
MOTION FOR SUMMARY DISPOSITION

On July 25, 2005, Charging Party Malcolm Marts filed an unfair labor practice charge against Respondent International UAW. The charge reads:

On May 13, 2005, the International UAW handed down an election appeal ruling to Local 1976 that restrains the right of public employees to use free choice in determining our bargaining representatives. The affected bargaining chair candidate won a fair and proper election by majority vote but was determined to be ineligible by the appeal process. The International UAW could find no reason to support its finding in our Local By-lays or the International UAW Constitution. Instead, the International UAW claims that our collective bargaining agreement addresses officer eligibility and prevents a popularly elected member from holding office.

On September 6, 2005, the Union filed a motion for summary dismissal alleging that the charge involves an internal union matter over which the Michigan Employment Relations Commission lacks jurisdiction. On September 7, 2005, I directed Charging Party to respond to the Union's motion. In his September 13, 2005 response, Charging Party requested that the matter be heard, as scheduled, on October 13, 2005, and stated that the arguments put forth in Respondent's motion did not address his original charge.

At the October 13, 2005 hearing, Charging Party argued that the charge should not be dismissed because Respondent confuses the issue of the bargaining chair's eligibility to run for office and the membership's right to freely elect their bargaining representatives. According to Charging Party, there is nothing in the bylaws or in the constitution that limits the members' rights. Charging Party asserts that if Respondent's motion is granted, members will have no other recourse. I find no merit to Charging Party's arguments.

The Commission has held that a union's duty of fair representation is limited to actions having an effect on employment and do not extend to matters that are strictly internal union affairs which do not impact the relationship of bargaining unit members to their employer. *AFSCME Council 25, Local 1918*, 1999 MERC Lab Op 11, *Private Industry Council*, 1993 MERC Lab Op 907; *SEIU, Local 586*, 1986 MERC Lab Op 149, 151; *MESPA (Alma Pub Sch Unit)*, 1981 MERC Lab Op 149. In his charge and during oral argument, Charging Party claims that Respondent violated PERA by restraining the right of union members to freely elect representatives of their choice. The selection of representatives, however, is an internal union matter beyond the Commission's jurisdiction. *Teamsters Local 214*, 2001 MERC Lab Op 25. I find that after being provided an opportunity for oral argument as required by *Smith v Lansing Sch Dist*, 433 Mich 248 (1987), summary disposition is appropriate since Charging Party has failed to allege a cause of action under PERA.

I, therefore, recommend that the Commission issue the order set forth below:

RECOMMENDED ORDER

The unfair labor practice charge is dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Roy L. Roulhac
Administrative Law Judge

Dated: _____