

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

In the Matter of:

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, COUNCIL 25,
Respondent-Labor Organization,

Case No. CU03 C-014

- and -

KAVIN L. WICKLIFFE,
An Individual Charging Party.

APPEARANCES:

Miller Cohen, P.L.C., by Richard G. Mack, Jr., Esq., for the Labor Organization

Kavin L. Wickliffe, *in Pro Per*

DECISION AND ORDER

On October 27, 2003, 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, 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

Nora Lynch, Commission Chairman

Harry Bishop, Commission Member

Maris Stella Swift, Commission Member

Dated: _____

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

On March 3, 2003, Charging Party Kavin L. Wickliffe filed an unfair labor practice charge against Respondent American Federation of State, County and Municipal Employees, Council 25. The charge reads:

On April 25, 2001 we received a judgement from M.E.R.C.[Michigan Employment Relations Commission] Case #L628-3075-99. We talked to Council 25 representatives numerous times to determine the status of their actions with the Township [Royal Oak]. We waited for vacations, retirements, no callbacks, and were checking during the same time we were involved in an arbitration log #A2553-3075-99, Local ref. #GP-120798-2. We had no difficulty with this case and it was heard on December 10, 2002, with final disposition received on December 26, 2002. The Union had no problem representing us on the arbitration but it seems like they do not want to finish the M.E.R.C. case.

We now have 20 members and the Union and Township refuse to take our dues. We have never received any form of communication that the Union is no longer representing us.

On September 15, 2003, Respondent filed a motion for summary disposition and a motion for a pre-hearing conference. On September 17, 2003, Charging Party was granted seven days to file a written response or to request oral argument. During a September 25, 2003 pre-hearing conference, Charging Party was directed to show cause why his charge should not be dismissed since it was filed more than six months after receiving a “judgment” in *Royal Oak Township, 2001 MERC Lab Op 117.1* Charging Party did not file a written response nor did he attend the September 29, 2003 hearing to present oral argument.

Section 16(a) of PERA, MCL 423.216(a) states that no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the Commission. The charge, on its face, indicates that Charging Party knew of an administrative law judge’s recommended decision and order on April 25, 2001. However, he did not file the unfair labor practice charge until March 3, 2003, almost two years later. Since the charge was not filed within the time limits set forth in Section 16(a) of PERA, I 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: _____

¹The Decision and Recommended Order of the Administrative Law Judge was issued on April 2, 2001.