

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

In the Matter of:

AMALGAMATED TRANSIT UNION, LOCAL 1039,
Labor Organization-Respondent,

Case No. CU11 K-030

-and-

DAVE STANFIELD,
An Individual-Charging Party.

APPEARANCES:

Dave Stanfield, *In Propria Persona*

DECISION AND ORDER

On December 9, 2011, Administrative Law Judge Doyle O'Connor 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

Edward D. Callaghan, Commission Chair

Nino E. Green, Commission Member

Christine A. Derdarian, Commission Member

Dated: _____

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
EMPLOYMENT RELATIONS COMMISSION**

In the Matter of:

AMALGAMATED TRANSIT UNION, LOCAL 1039,
Respondent-Labor Organization,

-and-

Case No. CU11 K-030

DAVE STANFIELD,
An Individual Charging Party.

APPEARANCES:

Dave Stanfield, Charging Party, representing himself

**DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE**

Pursuant to the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.201 *et seq*, this case was assigned to Doyle O'Connor, of the Michigan Administrative Hearing System, acting on behalf of the Michigan Employment Relations Commission (MERC).

The Unfair Labor Practice Charge:

The Charge in this matter was filed on November 10, 2011, by Dave Stanfield (Charging Party) against the Amalgamated Transit Union Local 1039 (Respondent or Union). It is alleged that at a Union membership meeting on May 18, 2011, the Local Union officials violated, or changed, the pre-existing internal Union rules governing nominations for election to Local Union office. It is further alleged that by such conduct the Union violated Section 10(3)(a)(i) of PERA.

It appeared that the allegations did not properly state a claim under PERA, the statute that this agency enforces; therefore, pursuant to Rule 165, R 423.165, of the General Rules and Regulations of the Employment Relations Commission, Charging Party was ordered to file a voluntary withdrawal or a written statement explaining why the charges should not be dismissed. Charging Party was cautioned

that if the Charge and his response to the Order did not state a valid claim, or if the Charge was not timely filed and timely served, or if he did not timely respond to this Order, a decision recommending that the Charge be dismissed without a hearing would be issued. Pursuant to MERC Rule R 423.176, Charging Party was advised that he would have the right to file exceptions to that recommended dismissal. A timely response was filed.

Findings of Fact:

It is alleged that on May 18, 2011, the Local Union held a nomination meeting for officers and that, at that meeting, the Union officers altered the pre-existing internal Union rule regarding the methods and eligibility for nomination for Union office. It is asserted that the Charge was both filed and served within five months and three weeks of the events of May 18. All factual allegations in the Charge and in the response to the Order to Show Cause are accepted as true for purposes of this motion.

Discussion and Conclusions of Law:

It is well-established that the duty of fair representation does not embrace matters involving the internal structure and affairs of labor organizations. *Service Employees Int'l Union, Local 517*, 2002 MERC Lab Op 104; *Service Employees International Union, Local 586*, 1986 MERC Lab Op 149. This principle is derived from Section 10(3)(a)(i) of the act, which states that a union may prescribe its own rules with respect to the acquisition or retention of membership. See e.g. *Organization of Classified Custodians*, 1993 MERC Lab Op 170; *Service Employees Int'l Union, Local 586, supra*. Internal union matters are outside the scope of PERA, but are left to the members themselves to regulate. *AFSCME Council 25, Local 1918*, 1999 MERC Lab Op 11; *MESPA (Alma Pub Schs Unit)*, 1981 MERC Lab Op 149, 154. The Commission has consistently refused to become involved in the internal structure and affairs of labor organizations as beyond its statutory mandate. See *Schoolcraft Community College*, 1996 MERC Lab Op 492, 496; *Jackson County Med.Care Facility*, 1967 MERC Lab Op 455, 457; *Catholic Social Services*, 1967 MERC Lab Op 48, 51; *City of Pontiac*, 1966 MERC Lab Op 200, 203.

In *International Union, UAW (Marts)*, 19 MPER 8 (2006), the Commission addressed a similar effort to pursue an unfair labor practice charge against a union arising from the disputed conduct of an internal union officer election process, and

reaffirmed its long standing holding that the selection of union representatives is an internal union matter beyond the Commission's jurisdiction. See, also *Teamsters Local 214*, 2001 MERC Lab Op 25. Even where a violation of the union's own internal rules is alleged or occurred, a union's failure to follow its internal rules does not, standing alone, constitute a breach of the duty of fair representation and is therefore outside the jurisdiction of the Commission. See e.g. *Registered Nurses and Registered Pharmacists of Hurley Hospital*, 2002 MERC Lab Op 394 (no exceptions). Therefore, the allegations made in this Charge do not state a claim under PERA.

I have carefully considered all other arguments asserted by the Charging Party in this matter and have determined that they do not warrant a change in the result. For the reasons set forth above, I recommend that the Commission issue the following order:

RECOMMENDED ORDER

The Charge is dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Doyle O'Connor
Administrative Law Judge
Michigan Administrative Hearing System

Dated: _____