

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

In the Matter of:

SUBURBAN MOBILITY AUTHORITY REGIONAL TRANSPORTATION,
Public Employer-Respondent in Case No. C15 A-005/Docket No. 15-003807-MERC,

-and-

AMALGAMATED TRANSIT UNION, LOCAL 1564,
Labor Organization-Respondent in Case No. CU15 A-001/Docket No. 15-003808-MERC,

-and-

STEED COATES,
An Individual Charging Party.

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APPEARANCES:

Steed Coates, appearing on his own behalf

DECISION AND ORDER

On May 12, 2015, Administrative Law Judge Travis Calderwood issued his Decision and Recommended Order in the above matter finding that Respondents 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

/s/
Edward D. Callaghan, Commission Chair

/s/
Robert S. LaBrant, Commission Member

/s/
Natalie P. Yaw, Commission Member

Dated: June 26, 2015

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

In the Matter of:

SUBURBAN MOBILITY AUTHORITY
REGIONAL TRANSPORTATION,

Respondent-Public Employer in Case No. C15 A-005; Docket No. 15-003807-MERC,

-and-

AMALGAMATED TRANSIT UNION, LOCAL 1564,

Respondent-Labor Organization in Case No. CU15 A-001; Docket No. 15-003808-MERC,

-and-

STEED COATES,

An Individual Charging Party.

APPEARANCES:

Steed Coates appearing on his own behalf

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

On January 12, 2015, Steed Coates (Coates or Charging Party), filed the above captioned unfair labor practice charges against the Suburban Mobility Authority Regional Transportation (Employer), and the Amalgamated Transit Union Local 1564 (Union). Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216, this case was assigned to Travis Calderwood, Administrative Law Judge for the Michigan Administrative Hearing System (MAHS), acting on behalf of the Michigan Employment Relations Commission (the Commission).

On February 11, 2015, following review of the charges, I issued an order, pursuant to Rule 165 of the Commission's General Rules, 2002 ACS; 2014 MR 24, R 423.165, directing Coates to show cause in writing why his charges should not be dismissed for failure to allege any specific facts which if proven true could establish a valid claim under PERA. That Order directed Charging Party to respond in writing on or before March 4, 2015. Coates did not respond to the Order nor did he contact MAHS to request an extension of time in which to file a response. Based upon the facts as alleged by Coates in his charges, I make the following conclusions of law and recommend that the Commission issue the following order.

Unfair Labor Practice Charge:

Both charges contained the following allegations:

Charge's [sic]: Unsafe Work Environment

On December 10, 2014 [,] Kimberly Hearn[sic], ATU Local 1564 President started verbally attacking my character [,] insulting me and made a threat against my life. I went to my supervisor and stated to him that this bullying must stop from the Union Officials [sic].

Charge: Hostile Work Environment

On January 9, 2015 [,] about 7:15 Monica Jordan [']s husband tried to run his SUV into my car because I started charges against his wife, because Monica had brought false allegation's [sic] to the company that were un-true [,] SMART did nothing to this young lady. I feel unsafe, and fear for my protection at work and off work. Mrs. Monica Jordan [']s husband is a Detroit Police Officer. All this is about how SMART and the Union Officials [sic] violated my 13c rights. I have filed a police report with the Clinton TWP P.D.

Discussion and Conclusions of Law:

Foremost, Charging Party's failure to respond to my February 11, 2015, Order, by itself, is cause for dismissal of the charges. *Detroit Federation of Teachers*, 21 MPER 3 (2008).

Charging Party's above noted failure to respond notwithstanding, dismissal of both charges is warranted under Rule 165 of the Commission's General Rules. Rule 165 provides the Commission or administrative law judge designated by the Commission with the authority to order dismissal of a charge, either on their own motion or on a motion by any party, without a hearing for the grounds set out in that rule, including that the charge does not state a claim upon which relief can be granted under PERA.

With respect to the Employer, PERA restricts public employers from engaging in "unfair" actions that seek to interfere with an employee's free exercise of the specific rights contained in Section 9 of the Act. *MERC v Reeths-Puffer Sch Dist*, 391 Mich 253, 259 (1974). PERA does not prohibit all types of discrimination or unfair treatment. *Detroit Pub Sch*, 22 MPER 16 (2009). Absent a valid claim under PERA, the Commission lacks jurisdiction to address the fairness of an employer's actions. *Id.* Coates has failed to offer any factual allegation that, if proven true, could establish that Charging Party had engaged in any protected activity for which he was subjected to unlawful discrimination or retaliation.¹

¹ While Coates makes mention of "13c rights" it is not clear from the charges what rights are being referred to. Federal law provides that when federal funds are used to acquire, improve, or operate a mass transit system, arrangements to protect the interests of mass transit employees must be made. 49 USC § 5333(b) (formerly Section 13(c) of the Urban Mass Transportation Act).

In addressing the charges levied against the Union, it is well established law that a union's obligation to its members is comprised of three responsibilities: (1) to serve the interest of all members without hostility or discrimination toward any; (2) to exercise its discretion in complete good faith and honesty; and (3) to avoid arbitrary conduct. *Vaca v Sipes*, 386 US 171 (1967); *Goolsby v City of Detroit*, 419 Michigan 651 (1984). Coates has failed to offer any factual allegation that, if proven true, could establish a breach of the Union's obligations to him or that could establish any other valid claim under PERA.

Simply put, despite being directed to do so, Charging Party has failed to state a valid claim under PERA against either his Employer or his Union for which relief could be available. Accordingly, for the reasons set forth herein, I recommend that the Commission issue the following order:

RECOMMENDED ORDER

It is hereby ordered that the unfair labor practice charges be dismissed in their entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Travis Calderwood
Administrative Law Judge
Michigan Administrative Hearing System

Dated: May 12, 2015