

STATE OF CONNECTICUT  
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTER OF

STATE EMPLOYEES BARGAINING  
AGENT COALITION

APRIL 30, 2013

-AND-

CONNECTICUT DEPARTMENT OF  
SOCIAL SERVICES

-AND-

GOVERNOR DANIEL MALLOY

-AND-

AFSCME, COUNCIL 4, LOCAL 714

-AND-

RONALD McLEOD

Case No. SPP-29,727

STATE EMPLOYEES BARGAINING  
AGENT COALITION

-AND-

CONNECTICUT DEPARTMENT OF  
CORRECTION

-AND-

GOVERNOR DANIEL MALLOY

-AND-

CONNECTICUT CORRECTIONAL  
EMPLOYEES, LOCAL 1565, AFSCME

-AND-

JOHN P. BOYLE

Case No. SPP-29,732

A P P E A R A N C E S:

Attorney Ellen M. Carter  
for the Connecticut Department of Social Services and  
Connecticut Department of Correction and  
Governor Daniel Malloy

Attorney Daniel E. Livingston  
Attorney Robert J. Krzys  
for SEBAC

Attorney J. William Gagne, Jr.  
for AFSCME Council 4 and Locals 714 and 1565

Attorney Leon M. Rosenblatt  
for Ronald S. McLeod and John P. Boyle

## **RULING ON OBJECTION TO SEQUESTRATION ORDER**

On March 29, 2012 Ronald McLeod (McLeod) filed a complaint with the Connecticut State Board of Labor Relations (the Labor Board) alleging that the State Employees Bargaining Agent Coalition (SEBAC), the Connecticut Department of Social Services (DSS), and AFSCME Council 4, Local 714 (AFSCME Local 714) violated the State Employees Relations Act (SERA or the Act) by abrogating existing collective bargaining agreements and imposing new contracts. On April 2, 2012 John P. Boyle (Boyle) filed a complaint with the Labor Board making the same allegations against SEBAC, the Connecticut Department of Correction (DOC), and AFSCME Council 4, Local 1565 (AFSCME Local 1565). The cases were consolidated and after the requisite preliminary administrative steps had been taken the matters came before the Labor Board for a hearing on February 14, 2013.

At the conclusion of the February 14 hearing Complainants had not concluded their direct examination of McLeod and additional hearings were scheduled for May 15 and 23, 2013. The Labor Board instructed McLeod to refrain from discussing his testimony with counsel in the interim. On March 29, 2013 Complainants filed an Objection to the Labor Board's Sequestration Order regarding Complainant McLeod requesting that the Labor Board rescind its order and allow McLeod "the time he lost to confer with counsel." On April 17, 2013 SEBAC filed a Response To Complainant's Objection contending that the Labor Board's instruction to McLeod was proper.

### **DISCUSSION**

Notwithstanding Complainants' contentions to the contrary,<sup>1</sup> the Labor Board's directive to McLeod was limited to an admonishment that the witness refrain from discussing his testimony while he is still on the stand during an adjourned hearing. In issuing this order the Board exercised its inherent discretionary power to control its hearings. *See* Regs., Conn. State Agencies § 5-273-56.<sup>2</sup> Although the Labor Board is not bound by technical rules of evidence applicable in court,<sup>3</sup> we note that it "is entirely appropriate for a trial judge to decide, after

---

<sup>1</sup> Complainants contend that the Labor Board's order prohibited McLeod from *discussing the case* with counsel pending completion of his testimony.

<sup>2</sup> Section 5-273-56 provides, in relevant part:

During the course of any hearing, the Board shall have the full authority to control the conduct and procedure of the hearings, and the records thereof, to admit or exclude testimony or other evidence, and to rule upon all motions and objections made during the course of the hearing. The Board shall provide that a full inquiry is made into all the facts in issue and shall obtain a full and complete record of all facts necessary for a fair determination of the issues . . .

<sup>3</sup> Conn. Gen. Stat. § 31-107(b) applies to prohibited practice proceedings under SERA pursuant to Conn. Gen. Stat. § 5-274(d) and states, in relevant part:

. . . In any hearing the board shall not be bound by technical rules of evidence prevailing in the courts.

listening to the direct examination of any witness, whether the defendant or a nondefendant, that cross-examination is more likely to elicit truthful responses if it goes forward without allowing the witness an opportunity to consult with third parties, including his or her lawyer.” *Perry v. Leeke*, 488 U.S. 272, 282 (1989). The directive to McLeod is both consistent with our long standing practice and in furtherance of our fact finding function and as such we overrule Complainants’ objection.

**ORDER**

Complainants’ Objection to the Labor Board’s Sequestration Order regarding Complainant McLeod is hereby OVERRULED.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

Patricia V. Low  
Patricia V. Low  
Chairman

Wendella Ault Battey  
Wendella Ault Battey  
Board Member

Kenneth Leech  
Kenneth Leech  
Board Member

**CERTIFICATION**

I hereby certify that a copy of the foregoing was mailed postage prepaid this 30<sup>th</sup> day of April, 2013 to the following:

Attorney Ellen M. Carter  
OPM-OLR  
450 Capitol Avenue, MS#53OLR  
Hartford, CT 06106

RRR

Attorney Daniel E. Livingston  
Livingston, Adler, Pulda, Meiklejohn & Kelly  
557 Prospect Avenue  
Hartford, CT 06105

RRR

Attorney Robert J. Krzys  
P.O. Box 207  
New Hartford, CT 06057

RRR

Attorney J. William Gagne, Jr.  
Gagne & Associates  
15 North Main Street  
West Hartford, CT 06107

RRR

Attorney Leon M. Rosenblatt  
10 North Main Street, Suite 214  
West Hartford, CT 06107

RRR

Linda Yelmini, Director  
OPM-OLR  
450 Capitol Avenue, MS#53OLR  
Hartford, CT 06106

---

Katherine C. Foley, Agent  
CONNECTICUT STATE BOARD OF LABOR RELATIONS