

STATE OF WASHINGTON
BEFORE THE MARINE EMPLOYEES' COMMISSION

NORBERT MUELLER,

Complainant,

v.

DISTRICT NO. 1, MARINE
ENGINEERS BENEFICIAL
ASSOCIATION,

Respondent.

MEC Case No. 1-02

DECISION NO. 290 - MEC
SUPPLEMENT:
ORDER DENYING REQUEST
FOR REVIEW

NATURE OF THE PROCEEDING

This matter is before the Marine Employees' Commission on the Complainant's Request for Review of Decision No. 290-MEC.

NATURE AND STATUS OF THE CASE

This case was filed by the complainant alleging that the union which had pursued an earlier case on his behalf (MEC Case 12-00, Decision No. 263) had violated its duty of fair representation in the manner in which it represented the complainant in that earlier case. In Decision No. 290-MEC, the Marine Employees' Commission ruled that the facts alleged by the complainant did not state a case upon which the Marine Employees' Commission could find that an unfair labor practice may have occurred. Decision No. 290-MEC ordered the dismissal of the complaint. The Request for Review currently before the Marine Employees' Commission takes exception to that decision.

GROUND ALLEGED IN REQUEST FOR REVIEW

The arguments raised by the Request for Review may be summarized as follows:

1. The Marine Employees' Commission misapplied the regulation which states the limitation period within which a complaint must be filed in order to be timely.

2. Complainant Mueller had a right to represent himself in the hearing in the earlier case (MEC Case 12-00 (Decision No. 263)).

3. The decision in that earlier case, Decision No. 263, was wrong on the merits.

DECISION DENYING THE REQUEST FOR REVIEW

The Marine Employees' Commission has considered the grounds put forth in the request for Review in light of the entire record in this case. The Marine Employees' Commission hereby denies the Request for Review. Decision No. 290 dismissing the complaint will not be altered. Decision No 290 will stand as issued.

BASIS FOR THE DENIAL OF THE REQUEST FOR REVIEW

The Marine Employees' Commission denies the Request for Review for the following reasons:

1. The limitations period runs, as the rule (WAC 316-45-020) states, from the occurrence or awareness of the event and not from the date on which an individual chooses to analyze the law affecting the event. As a consequence, complainant's argument does not affect the decision at issue.

2. Complainant's argument that he would have preferred to represent himself in the earlier case is irrelevant to the issue raised in the complaint in this case that the union violated the law in the manner in which it presented the earlier case it had filed on the complainant's behalf. As a consequence, the argument does not affect the decision at issue.

3. The attempt to re-litigate the merits of the earlier case is outside the scope of the matter currently before the Marine Employees' Commission. Complainant's displeasure with the Marine Employees' Commission's action in the earlier case is irrelevant to the grounds upon which the Marine Employees' Commission decided not to proceed with the present unfair labor practice complaint.

ORDER AND STATEMENT OF APPEAL RIGHT

The Marine Employees' Commission hereby ORDERS that Decision 290 be final and binding in accordance with RCW 47.64.280.

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Complainant (Mueller) has thirty days from the date of this ORDER to appeal to the Washington State Superior Court pursuant to RCW 34.05.542 and RCW 34.05.514. The venue (proper place) for appeal is the Thurston County Superior Court or the Superior Court of the county of Mr. Mueller's residence.

DATED this _____ day of February 2002.

MARINE EMPLOYEES' COMMISSION

JOHN NELSON, Chairman

JOHN BYRNE, Commissioner