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STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Richard Konkler,

Petitioner,

and

Public Employees of Ohio, Local No. 450

Employee Organization,

and

Hocking County Engineer,

Employer.

CASE NUMBER: 85-RD-12-4857

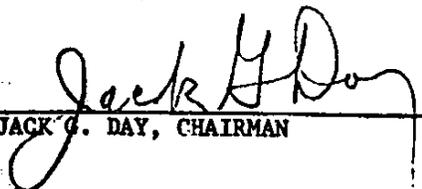
DISMISSAL OF PETITION FOR DECERTIFICATION ELECTION
(Opinion Attached)

Before Chairman Day and Vice Chairman Sheehan; January 23, 1986.

Richard Konkler (Petitioner) has filed a petition seeking an election to decertify the Public Employees of Ohio, Local No. 450 (Employee Organization) as the exclusive representative of a unit of employees of the Hocking County Engineer (Employer). The Employee Organization had been certified as the exclusive representative as a result of a Board-conducted election. The Petitioner now alleges that the majority of employees in the unit do not desire exclusive representation by the Employee Organization. For the reasons stated in the attached opinion, incorporated by reference, the Board dismisses the Petition.

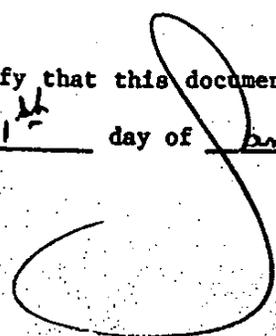
It is so directed.

DAY, Chairman and SHEEHAN, Vice Chairman; concur. Board Member FIX absent.



JACK G. DAY, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this 31st day of January, 1986.





KENNETH W. BARRETT, EXECUTIVE DIRECTOR

STATE OF OHIO
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In the Matter of
Richard Konkler,
Petitioner,
and
Public Employees of Ohio
and
Hocking County Engineer,
Respondents.

CASE NUMBER: 85-RD-12-4857

OPINION

Day, Chairman:

A Petition for Decertification may, as in this case, be filed by an individual employee.¹ The petition must assert that the exclusive representative no longer represents a majority of the employees in the unit.² The assertion must be supported by evidence. Sufficient

¹An individual has standing to challenge a "certified" unit but not a unit "deemed certified" under Temporary Law Section 4(A). See In Re: John C. Cole, OAPSE/AFSCME and New Miami Local School District Board of Education (1985), Case 85-RC-02-2973.

²R.C. 4117.07(A)(1)

evidence³ will trigger an investigation by the State Employment Relations Board (SERB or Board). If the Board determines there is reasonable cause to believe a question of representation exists, a hearing is provided.⁴ Where the Board finds after hearing that a question of representation exists, in fact, it directs an election and certifies the results.⁵

In addition, the Board will require an individual petitioner to demonstrate an agency to act for others.⁶ To require less would make it

³Administrative Rule 4117-5-02 (C):

"(C) A petition for decertification filed pursuant to division (A)(1) of section 4117.07 of the Revised Code shall contain the following:

(5) A statement that the designated exclusive representative is no longer the representative of the majority of the employees in the unit, together with evidence in support thereof, such evidence to consist of:

- (a) Original signed and dated statements, including but not limited to cards and petitions, that clearly set forth the intent of the employee with respect to representation by the employee organization; or
- (b) Dues deduction authorizations or dues deduction lists in effect as of the payroll period immediately preceding the filing of the decertification petition for election."

⁴R.C. 4117.07(A)(1).

⁵R.C. 4117.07(A)(2) (second paragraph.)

⁶See R.C. 4117.07:

"(A) When a petition is filed, in accordance with rules prescribed by the state employment relations board:

- (1) by any employee or group of employees, or any individual or employee organization acting in their behalf, alleging that at least thirty per cent of the employees in an appropriate unit wish to be represented for collective bargaining by an exclusive representative, or asserting that the designated exclusive representative is no longer the representative of the majority of employees in the unit, the board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, provide for an appropriate hearing upon due notice to the parties;"

The obvious purpose of the election bar is to introduce some time orderliness into the electoral process.

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impossible to rationally effectuate the election bar rule which prohibits more than one Board conducted representation election during a twelve month period.⁷ For it does not square with the purposes of the Act to allow a solo petitioner to secure an election and thus bar another canvass (even one sought by a substantial majority) for a whole year.

No evidence of agency was filed with the petition in this cause. Therefore, the process provided by R.C. 4117.07(A)(1) and (2) is unavailable to the petitioner.

The petition is dismissed for lack of agency evidence.

Sheehan, Vice Chairman, concurs; Fix, Board Member, absent.

⁷R.C. 4117.07(C)(6).