

STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL

Barbara Martenson, )  
 )  
 Charging Party )  
 )  
 and ) Case No. S-CA-11-255  
 )  
 County of Boone and Boone County Sheriff, )  
 )  
 Respondent )

DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL

On November 28, 2011, Executive Director John F. Brosnan issued a partial dismissal of unfair labor practice charges filed by Barbara Martenson (Charging Party) in the above-captioned case. The Charging Party alleged that the County of Boone and Boone County Sheriff (Respondent) violated Section 10(a)(1) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010), as amended (Act), by discharging her from her employment as a dispatcher, and also violated Section 10(a)(1) in that it interfered with her rights under Section 6 by telling her and her co-workers to not discuss the then-pending investigation that ultimately led to Martenson's discharge. The Executive Director issued a complaint regarding the discharge, and also issued a complaint in companion Case No. S-CB-11-063 filed by Charging Party against her union, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, Local 1761, alleging a violation of Section 10(b) for its failure to advance grievances relating to her suspension and discharge. However, in the matter presently pending before us, the Executive Director also issued a partial dismissal, dismissing those aspects of the charge that relate to the Respondent's order prohibiting Charging Party and the other employees from discussing the investigation.

Charging Party filed a timely appeal of the Executive Director's partial dismissal pursuant to Section 1200.135(a) of the Board's Rules and Regulations, 80 Ill. Admin. Code, Parts 1200 through 1240.<sup>1</sup> Respondent did not file a response. After reviewing the record and the appeal, we reverse the Executive Director's partial dismissal, and direct that a complaint for hearing be issued.

Charging Party alleges that, when she was placed on administrative leave pending investigation of the incident that ultimately led to her discharge, Lieutenant Gay instructed her not to talk to other employees about the investigation, and that several employees were given copies of a memo instructing them to not discuss the investigation with Charging Party. It is her position that, by this conduct, the Respondent interfered with her rights under Section 6(a) of the Act. In opposition, Respondent argued that a single employee's attempt to obtain information regarding her own disciplinary investigation for her own protection is not protected concerted activity within the meaning of the Act. Relying on Pace West Division, 13 PERI ¶2027 (IL SLRB 1997), the Executive Director agreed with Respondent, finding Charging Party's agenda was limited to her personal circumstances and there was no evidence that, in seeking to speak with fellow employees regarding the investigation, Charging Party acted on behalf of, or at the direction of, her union.

We disagree with the Executive Director's assumption that Respondent's issuance of the order did not impact Charging Party's rights under the Act. Under established National Labor Relations Board precedent, an overly broad employer directive that employees refrain from discussing discipline and disciplinary investigations with co-workers can, in the absence of sufficiently persuasive business reasons for the directive, constitute a violation of employees'

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<sup>1</sup> Charging Party also requested an opportunity to present oral argument, but we find the issues are sufficiently presented and that oral argument is unnecessary for our resolution of the case.

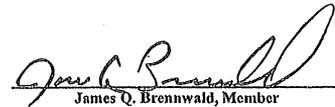
rights to engage in protected concerted activity. See Desert Palace, Inc. d/b/a Caesar's Palace and Richard Zollo, 336 NLRB 271 (2001) and Westside Community Mental Health Center, Inc. and Service Employees International Union, Local 790, AFL-CIO, 327 NLRB 661 (1999).

We do not here hold that the circumstances of this case warrant such a finding—that depends on resolution of factual issues such as the breadth of Respondent's order and the legitimacy of Respondent's business reasons for issuing it. However, we do find sufficient issues of fact and law have been raised warranting a hearing on the matter. For that reason, we reverse the Executive Director's partial dismissal and remand for issuance of a complaint consistent with this decision.

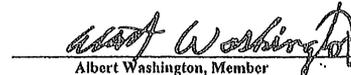
BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

  
Jacalyn J. Zimmerman, Chairman

  
Paul S. Besson, Member

  
James Q. Brennwald, Member

  
Michael G. Coll, Member

  
Albert Washington, Member

Decision made at the State Panel's public meeting in Chicago, Illinois, on April 12, 2012; written decision issued at Chicago, Illinois, May 14, 2012.

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AFFIDAVIT OF SERVICE

I, Elaine Tarver, on oath state that I have this 15th day of May 2012, served the attached **DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD STATE PANEL** issued in the above-captioned case on each of the parties listed herein below by depositing, before 5:00 p.m., copies thereof in the United States mail at 100 W Randolph Street, Chicago, Illinois, addressed as indicated and with postage prepaid for first class mail.

James Harrison  
Harrison Law Office  
684 S. Eastwood Drive  
Woodstock, IL 60098

Steven Balough  
William McCarthy  
120 W. State Street  
P.O. Box 219  
Rockford, IL 61105-0219

Elaine Tarver

SUBSCRIBED and SWORN to  
before me this 15th day  
of May, 2012.

Carla Stone  
NOTARY PUBLIC

