

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

Julius C. Perryman,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. S-CA-13-073
	)	
State of Illinois, Department of Central	)	
Management Services,	)	
	)	
Respondent	)	

**DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

On April 3, 2013, Acting Executive Director Jerald S. Post dismissed the unfair labor practice charge filed by Julius C. Perryman (Charging Party) in the above-captioned case. The Charging Party alleged that the State of Illinois, Department of Central Management Services (Respondent) engaged in unfair labor practices within the meaning of Section 10(a) of the Illinois Public Labor Relations Act, 5 ILCS 315/10(a) (2010), when Respondent took a series of disciplinary actions against him ultimately leading to his August 29, 2012, discharge.

The Charging Party filed a timely appeal of the Acting Executive Director's Dismissal pursuant to Section 1200.135(a) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(a). The Respondent filed no response. After reviewing the record and appeal, we uphold the Acting Executive Director's Dismissal.

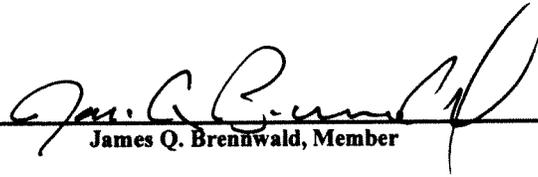
BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD



**John Hartnett, Chairman**



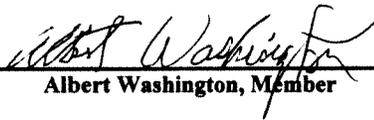
**Paul S. Besson, Member**



**James Q. Brennwald, Member**



**Michael G. Coli, Member**



**Albert Washington, Member**

Decision made at the State Panel's public meeting in Chicago, Illinois, on May 16, 2013; written decision issued at Chicago, Illinois, May 24, 2013.

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Charging Party	)	
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and	)	Case No. S-CA-13-073
	)	
State of Illinois, Department of Central Management Services,	)	
	)	
Respondent	)	
	)	

**DISMISSAL**

On August 31, 2012, Julius C. Perryman (Charging Party) filed a charge in Case No. S-CA-13-073, with the State Panel of the Illinois Labor Relations Board (Board), in which he alleged that the State of Illinois, Department of Central Management Services (Respondent) engaged in unfair labor practices within the meaning of Section 10(a) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010) *as amended* (Act). After an investigation conducted in accordance with Section 11 of the Act, I determined that the charge fails to raise an issue of law or fact sufficient to warrant a hearing and hereby issue this dismissal for the reasons which follow.

**I. INVESTIGATORY FACTS AND POSITION OF THE CHARGING PARTY**

Charging Party is employed by the Respondent as a “Highway Maintainer” working at the Illinois Department of Transportation (IDOT) and is a member of a bargaining unit that is represented by Teamsters Local 700. He claims that in September 2011 he was suspended for a period of five days after a co-worker referred to him using a racial slur. Charging Party further claims he was suspended for a period of ten days in March 2012 after a co-worker verbally

attacked him and forcefully pulled him out of his truck. He claims the incident was heard over the Respondent's mobile radio because he had knowingly keyed the truck's microphone in order to record the incident. Charging Party further claims that in April 2012 the Respondent erroneously placed him on a 30-day suspension without pay and ultimately discharged him for stalking and harassing a supervisor. He states he was not allowed to attend a pre-disciplinary meeting about that final incident. Charging Party is seeking to be made whole by receiving all back pay including vacation, sick and regular pay.

The Charging Party claims the Respondent discharged him for a number of incidents (altercations) with co-workers and supervisory personnel. He believes he was wrongly disciplined and ultimately discharged and that evidence will show that he was the victim and not the instigator in these incidents. Charging Party claims the Respondent retaliated against him because he was a witness concerning a complaint filed by another IDOT employee before the Equal Employment Opportunity Commission.

By letter dated February 21, 2013, the Board agent explained the applicable standard to pursue a claim against the Respondent under Section 10(a)(2) of the Act. In response to the Board Agent's request, Charging Party submitted numerous documents, correspondence, emails and a video clip.<sup>1</sup>

## **II. DISCUSSION AND ANALYSIS**

The Charging Party primarily claims that he was discharged because he was a witness in an EEOC proceeding initiated by another IDOT employee. Section 10(a)(2) of the Act prohibits an employer from discriminating against public employees on the basis of union activity or

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<sup>1</sup> In Case No. S-CB-13-031 Charging Party also filed a charge against his union arising out of the same set of circumstances.

support. To establish a prima facie case in support of an alleged violation under Section 10(a)(2), Charging Party must, at the investigative stage, provide a showing that the employee engaged in union and/or protected, concerted activity. Charging Party must also provide a showing that the employer took an adverse employment action against the employee, in whole or in part because of anti-union animus, or that the protected conduct was a substantial or motivating factor in the adverse action. City of Burbank v. Ill. State Labor Relations Bd., 128 Ill. 2d 335, 345 (1989). Discriminatory motivation may be established through direct evidence or based on circumstantial factors, including: expressions of hostility towards protected activity together with knowledge of the employee's union activity; proximity in time between the employee's union activity and the employer's action; disparate treatment or a pattern of conduct which targets union supporters for adverse employment action; or shifting or inconsistent explanations regarding the adverse employment action. Id. at 345-46; County of Menard v. Ill. State Labor Relations Bd., 202 Ill. App. 3d 878, 890-91 (4<sup>th</sup> Dist. 1990).

In this case, even if Charging Party's involvement in the EEOC matter were sufficient to constitute protected activity under the Act, Charging Party did not present sufficient evidence indicating that the Respondent discharged him because he was a witness in the EEOC case. Charging party has not provided any evidence to establish a causal connection between the other employee's EEOC charge and his own discharge. Moreover, there is no evidence that other similarly situated employees who had not been witnesses in EEOC proceedings were treated differently by the Respondent.

Charging Party claims the Respondents' representatives ignored evidence presented on his behalf during disciplinary proceedings arising out of his disputes with co-workers and supervisory personnel. However, Charging Party has not provided evidence that his rights were

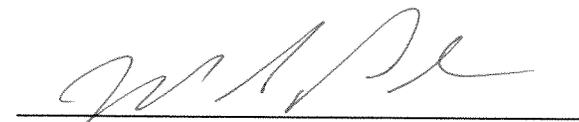
violated under the Act. Therefore there is no issue of fact or law sufficient to require a hearing regarding whether the Respondent violated Section 10(a)(2) of the Act.

### **III. ORDER**

Accordingly, the instant charge is hereby dismissed. The Charging Party may appeal this dismissal to the Board any time within 10 days of service. Such Appeal must be in writing, contain the case caption and number, and must be addressed to the General Counsel of the Illinois Labor Relations Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois, 60601-3103. The appeal must contain detailed reasons in support, and the Charging Party must provide it to all other persons or organizations involved in this case at the same time it is served on the Board. The appeal sent to the Board must contain a statement listing the other parties to the case and verifying that the appeal has been provided to them. The appeal will not be considered without this statement. If no appeal is received within the time specified, the dismissal will be final.

**Issued in Chicago, Illinois, this 3<sup>rd</sup> day of April, 2013.**

**ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**



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**Jerald S. Post, Acting Executive Director**