

UNITED STATES OF AMERICA  
FEDERAL LABOR RELATIONS AUTHORITY  
OFFICE OF ADMINISTRATIVE LAW JUDGES  
WASHINGTON, D.C. 20424

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AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES,  
LOCAL 987  
WARNER ROBINS, GEORGIA

Respondent

and

Case No. 4-CO-10021

NEDRA T. BRADLEY,  
AN INDIVIDUAL

Charging Party

.....  
Stuart A. Kirsch, Esq.  
For the Respondent

Richard S. Jones, Esq.  
For the General Counsel

Before: WILLIAM NAIMARK  
Administrative Law Judge

DECISION

Statement of the Case

Pursuant to a Complaint and Notice of Hearing issued on November 27, 1991 by the Regional Director for the Atlanta Regional Office of the Federal Labor Relations Authority, a hearing was held before the undersigned on February 13, 1992 at Warner Robins, Georgia.

This case arose under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 et seq., (herein called the Statute). It is based on a charge filed by Nedra T. Bradley, an individual, against American Federation of Government Employees, AFL-CIO, Local 987, Warner Robins, Georgia (herein called the Respondent or the Union) on August 2, 1991.

The Complaint alleged, in substance, that (a) the American Federation of Government Employees, AFL-CIO (AFGE)

is the exclusive representative of a command-wide consolidated unit of employees, which includes employees at Warner Robins Air Force Base, Georgia; (b) Respondent is the designated agent of AFGE to represent unit employees at said Air Force Base; (c) Bradley, an employee in the unit at said Base, submitted form SF-1187 to Respondent on June 21, 1991 for the purpose of applying for membership; (c) Respondent since June 21, 1991 and on July 24, 1991 refused and failed to process Bradley's SF-1187 - all in violation of section 7116(b)(1) and (8) of the Statute.

Respondent's Answer dated December 18, 1991, denies the essential allegations of the Complaint and the commission of any unfair labor practices. As an affirmative defense, Respondent alleges that Bradley's SF-1187 was processed, and any delay in further processing is due to her owing money to Respondent; that upon repayment her application will be further processed.

All parties were represented at the hearing. Briefs were filed which have been duly considered.<sup>1/</sup>

Upon the entire record, from my observation of the witnesses and their demeanor, and from all of the testimony and evidence adduced at the hearing. I make the following findings and conclusions:

#### Findings of Fact

1. At all times mentioned herein American Federation of Government Employees, AFL-CIO (AFGE) has been, and still is, the exclusive representative of a command-wide consolidated unit of employees, including the employees who are employed at Warner Robins Air Force Base.

2. At all times material herein Respondent has been, and still is, the agent of AFGE for the purposes of representing unit employees who are employed at Warner Robins Air Force Base.

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<sup>1/</sup> Subsequent to the hearing General Counsel filed a Motion to Reopen the Record to receive in evidence a NOLLE PROSEQUI Order in connection with Indictment No. 91-C-17259-N. The said Indictment was by the State of Georgia against Bradley for theft. Inasmuch as the NOLLE PROSEQUI Order was not available at the date of the hearing, and Respondent has interposed no objection, the Motion is granted, and the Order is marked as General Counsel's Exhibit No. 5.

3. Nedra T. Bradley is employed as a records clerk with the Robins Air Force Base in the Robins Air Logistics Center. She was a member of Respondent Union from 1967 to February 4, 1991. In 1972 she became recording secretary and served for six years. Bradley was elected President of the Union in December 1983 and acted in that capacity until October 17, 1989.

4. In a letter dated October 17, 1989, John N. Sturdivant, President of the AFGE, notified Bradley that she was removed from office of President of the Union and being replaced by Rick Dorough. A Trial Panel was convened to conduct a trial regarding six acts of wrongdoing charged against Bradley.

5. On October 19, 1990, Sturdivant wrote Bradley in which he informed her that the Panel had found her guilty of five charges; that, as a result thereof, Bradley was suspended from holding any AFGE office for two years; that the suspension did not suspend her right of membership in the Union.

6. Thereafter, on October 29, 1990, Bradley voluntarily submitted Form 1188 to the employer, which declared her desire to cancel the payroll deduction of her dues from her pay. The effective date of the cancellation was February 9, 1991, which was her drop date from Union membership.

7. On June 21, 1991, Bradley submitted Form 1187 which is a request that her union dues be deducted from her pay.<sup>2/</sup> The request was not processed.

8. Prior thereto, and while Bradley was still President of the Union, the Department of Labor was investigating alleged financial improprieties concerning Bradley. These involved possible repayment of salary, improper receipt of per diem, use of a dental trust fund, and usage of the telephone for personal calls.

9. In July 1991, according to Dorough, the Executive Council of the Union decided to deny Bradley's application for Union membership. On July 24, 1991, Dorough talked to

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<sup>2/</sup> While this form is entitled "Request For Payroll Deductions For Labor Organization Dues, both parties refer to it as an application for union membership. Further, Respondent's failure and refusal to process the request is deemed a denial of her membership application.

Bradley about her application and mentioned that the council had problems<sup>3/</sup> with it; that there were charges forthcoming.

10. Bradley was indicted on three grounds of theft on September 24, 1991. The indictment was nolle prossed by an order of the Superior Court of Houston County, Georgia on February 20, 1991 "due to the inability to locate a witness who was willing to substantiate the charges in the indictment."

### Conclusions

Respondent argues that it has full power under the AFGE Constitution (Article III, Section 2) to accept or reject applications for membership. Further, that it may enforce discipline in accordance with the procedures under the Constitution. Apart therefrom, Respondent also contends that to require Bradley's acceptance as a member and then compel it to relitigate the charges against her would be costly and time-consuming. It is also maintained that Bradley's resignation from the Union was calculated to preempt it from bringing charges against her. Finally, Respondent states it will accept Bradley as a member when she restores the monies, allegedly misappropriated by her, to the Union.

The issue for determination is whether the Respondent Union may, in enforcing discipline against employee Bradley for alleged misconduct in misappropriating Union funds, deny membership to Bradley after she resigned from the Union during an investigation of her conduct and then reapplied for membership therein.

Section 7116(c) of the Statute provides as follows:

For the purpose of this chapter it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented

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<sup>3/</sup> One problem involved certain prepaid legal benefits which Union members received without payment therefor. While Bradley was President of the Union, it had paid five dollars per month for 6-8 months of legal benefits for her. Those who were receiving such services remained members in good standing. The Union just discontinued them in prepaid legal services. The prepaid legal plan is separate from regular dues deduction.

by such exclusive representative except for failure-

(1) to meet reasonable occupational standards uniformly required for admission, or

(2) to tender dues uniformly required as a condition of acquiring and retaining membership.

It is quite clear, and not challenged by Respondent, that a union may not refuse membership to a unit employee who has met the prescribed occupational standards and tendered union dues. While the AFGE Constitution provides a procedure for suspending or expelling an individual from union membership, it is also conceded that no such process, as set forth in Article XVIII thereof, was invoked with respect to Bradley. Moreover, Respondent's sole action of a disciplinary nature was to suspend Bradley from holding any office in the Union for two years. This suspension was based on the findings of AFGE's Trial Panel that Bradley misappropriated Union funds and engaged in other misconduct, including improper execution of Union checks.

The record reflects, however, that Respondent did not confine its action to suspending Bradley from holding office in the Union. It also affected her membership in the Union. This occurred after Bradley cancelled her dues on October 29, 1990. She was no longer deemed to be a member of the Union after her drop date from membership in February 1991. Despite Bradley's reapplying for membership on June 21, 1991, Respondent refused to process her application and abided by the Executive Council's determination not to accept her as a member - that "the financial discrepancies would have to be cleared up".

None of the arguments advanced by Respondent to support the denial of membership to Bradley is meritorious. While the Union may, it is true, discipline members and pass upon membership under its constitution, the latter sets forth a specific procedure and requirements to do so. Such procedure was not invoked by the Union nor did it take steps to expel Bradley from membership based on the charges considered by the Executive Council. Concerns by the Union as to the burden imposed upon it to accept Bradley as a member and then take steps to expel her, or the likely affect of her acceptance upon other members as well as its obligation to

members, do not justify denying union membership to this employee. Under section 7102 of the Statute each employee has the right to join a labor organization and to be protected in the exercise of such right. Furthermore, it is an unfair labor practice as set forth in section 7116(b)(1) for a labor organization "to interfere with, restrain, or coerce any employee in the exercise of any right under this chapter".

The refusal by Respondent to accept Bradley as a Union member when she applied in June 1991 was unjustified and flouted section 7116(c)<sup>4/</sup> of the Statute. Denial of such membership was not based on her failure to pay dues which would have justified rejecting her application. Accordingly, I conclude Respondent violated section 7116(b)(1) and (8) of the Statute by denying membership to Bradley.

Having concluded that Respondent violated the Statute as aforesaid, it is recommended that the Authority issue the following:

#### ORDER

Pursuant to section 2423.29 of the Federal Labor Relations Authority's Rules and Regulations and section 7118 of the Statute, it is hereby ordered that the American Federation of Government Employees, Local 987, Warner Robins, Georgia shall:

1. Cease and desist from:

(a) Denying membership to Nedra T. Bradley in American Federation of Government Employees, Local 987, Warner Robins, Georgia, for any reason other than her failure to meet reasonable occupational standards uniformly required for admission, or her failure to tender dues uniformly required as a condition of acquiring and retaining membership.

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<sup>4/</sup> Respondent adverts to the failure of the Complaint to refer to section 7116(c). The Complaint is not defective due to such omission. While including a reference to that section of the Statute would be more definitive, the Complaint alleges the necessary statutory provisions involving the alleged violations by Respondent.

(b) In any like or related manner, interfering with, restraining or coercing its employees in the exercise

of their rights assured by the Federal Service Labor-Management Relations Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Federal Service Labor-Management Relations Statute:

(a) Unconditionally offer to restore Nedra T. Bradley to full membership in American Federation of Government Employees, Local 987, Warner Robins, Georgia, and make her whole, consistent with applicable laws and regulations, for any loss of benefits she may have suffered by reason of its denial of membership.

(b) If tendered, accept payment by Nedra T. Bradley of her dues uniformly required as a condition of membership in American Federation of Government Employees, Local 987, Warner Robins, Georgia, either by direct payment by Nedra T. Bradley or by allotment pursuant to section 7115(a) of the Statute, covering the period beginning with her receipt of an unconditional offer to restore her to full membership.

(c) Post at its business office and its normal meeting places, including all places where notices to members and employees of the Department of the Air Force, Warner Robins Air Logistics Center, Robins Air Force Base, Georgia are customarily posted, copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the President of the American Federation of Government Employees, Local 987, Warner Robins, Georgia and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin boards and other places where notices to members and other employees are customarily posted. Reasonable steps shall be taken to insure that such Notices are not altered, defaced, or covered by any other material.

(d) Submit appropriate signed copies of such Notices to the Department of the Air Force, Warner Robins Air Logistics Center, Robins Air Force Base, Georgia, for posting in major places where unit employees are located, where they shall be maintained for a period of 60 consecutive days from the date of posting.

(e) Pursuant to section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director of the Atlanta Regional Office, Federal Labor Relations Authority,

NOTICE TO ALL MEMBERS AND OTHER EMPLOYEES  
AS ORDERED BY THE FEDERAL LABOR RELATIONS AUTHORITY  
AND TO EFFECTUATE THE POLICIES OF THE  
FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE  
WE HEREBY NOTIFY OUR MEMBERS AND OTHER EMPLOYEES THAT:

WE WILL NOT deny membership to Nedra T. Bradley in American Federation of Government Employees, Local 987, Warner Robins, Georgia, for any reason other than her failure to meet reasonable occupational standards uniformly required for admission, or her failure to tender dues uniformly required as a condition of acquiring and retaining membership.

WE WILL NOT in any like or related manner, interfere with, restrain, or coerce employees in the exercise of their rights assured by the Federal Service Labor-Management Relations Statute.

WE WILL unconditionally offer to restore Nedra T. Bradley to full membership in American Federation of Government Employees, Local 987, Warner Robins, Georgia, and make her whole, consistent with applicable laws and regulations, for any loss of benefits she may have suffered by reason of our denial of membership.

\_\_\_\_\_  
(Activity)

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
(Signature) (Title)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Regional Director of the Federal Labor Relations Authority, of the Atlanta Regional Office, whose address is: 1371 Peachtree Street, NE, Suite 122, Atlanta, GA 30367, and whose telephone number is: (404) 347-2324.

in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.

Issued, Washington, DC, July 29, 1992

A handwritten signature in cursive script, reading "William Naimark", written in dark ink. The signature is positioned above a horizontal line.

WILLIAM NAIMARK  
Administrative Law Judge