

LOS ANGELES COUNTY
EMPLOYEE RELATIONS COMMISSION

In the Matter of)	
)	
ASSOCIATION FOR LOS ANGELES)	
DEPUTY SHERIFFS (ALADS))	
)	
Charging Party)	
)	
v.)	UFC 14.39
)	
SHERIFF'S DEPARTMENT)	
)	
Respondent)	
<hr/>		

DECISION AND ORDER

The charge in this case was filed by the Association for Los Angeles Deputy Sheriffs (Charging Party) against the Los Angeles County Sheriff's Department (County or Respondent) alleging that the County violated Section 12(a)(1) of the Los Angeles County Employee Relations Ordinance (Ordinance) by suspending Deputy Sheriff Ronald Marquez for three days without pay. The charge was amended to further allege that the County had also violated the above cited Section of the Ordinance when it transferred Deputy Marquez from the Lynwood Station to the La Crescenta Station.

The matter was duly referred to Hearing Officer Philip Tamoush, who held hearings on March 3 and March 20, 1986. The parties appeared and were afforded full opportunity to present argument and evidence and to examine and cross-examine witnesses. Post-hearing briefs were filed. Hearing Officer Tamoush submitted his Report to the Commission on September 15, 1986. Exceptions to this Report were filed by the

Respondent and the Charging Party submitted a statement in opposition thereto.

The Commission issued an Interim Decision and Order, dated December 12, 1986, which remanded the matter to the Hearing Officer and directed him to make a specific credibility finding with respect to the conflicts in the testimony of Deputy Marquez and Lieutenant Sanchez as to whether Marquez had made a request for representation at the investigatory meeting in question. Pursuant to said Order, Hearing Officer Tamoush submitted his Supplemental Report on January 15, 1987. No Exceptions to this Report were filed.

Hearing Officer Tamoush in his Supplemental Report resolved the conflicts in the testimony of Marquez and Sanchez in favor of Deputy Marquez. He therefore concluded that Marquez during the course of the May 4, 1985, investigatory meeting had made a request for representation and that this request was denied. These credibility findings made by the Hearing Officer who had the opportunity first-hand to hear the testimony and observe the demeanor of the respective witnesses should not be overturned unless clearly erroneous and not supported by the evidence. Our review of the record discloses sufficient evidence therein to support Hearing Officer Tamoush's credibility determinations. Hence, we adopt his conclusions that Deputy Marquez had requested representation at the investigatory meeting and that this representation was denied in violation of Section 12(a)(1) of the Ordinance.

Although the parties stipulated that Marquez' administrative transfer was predicated on his conduct at the investigatory meeting, the letter which memorialized his three-day suspension referenced

as a basis thereof both his conduct at the meeting and an earlier incident involving Marquez and Sergeant Frisch. As the record precludes apportioning the suspension with any degree of certainty between the two incidents, we deem the following Order to be appropriate.

O R D E R

IT IS HEREBY ORDERED that charge UFC 14.39 is sustained.

The County is therefore ordered to:

1. Cease and desist from denying an employee's request for union representation at an investigatory meeting that the employee reasonably believes might result in disciplinary action.
2. Rescind the three-day suspension given Deputy Marquez and make him whole for all pay and benefits lost as a result thereof.
3. Expunge from Deputy Marquez' personnel record any and all references to said suspension.
4. Forthwith offer Deputy Marquez the option to return to the Lynwood Station. Deputy Marquez shall have five (5) days from the receipt of this offer to either accept or reject the opportunity to return to the Lynwood Station.

/


/

/

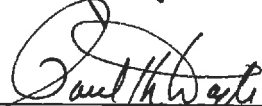
/

5. Post, where notices to employees of the Lynwood Sheriff's Station are normally posted, a copy of this Decision and Order for a minimum of ten (10) business days.

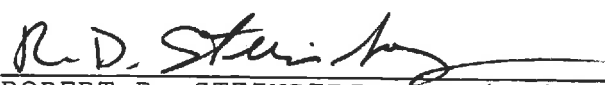
DATED at Los Angeles, California, this 20th day of February 1987.



JOSEPH R. GENTILE, Chairman



PAUL K. DOYLE, Commissioner



ROBERT D. STEINBERG, Commissioner