

LOS ANGELES COUNTY
EMPLOYEE RELATIONS COMMISSION

In the Matter of

ASSOCIATION FOR LOS ANGELES
DEPUTY SHERIFFS (ALADS)

Charging Party,

v.

LOS ANGELES COUNTY SHERIFF'S
DEPARTMENT,

Respondent

UFC 14.83

DECISION AND ORDER

Petitioner Association for Los Angeles County Deputy Sheriffs (hereinafter "ALADS" or "Charging Party") filed the instant charge against the Los Angeles County Sheriffs Department alleging that the County violated Sections 12(a)(1) and Section 4 of the Employee Relations Ordinance by denying Deputy Dwight Kenney his right to union representation during an investigatory interview.

At its meeting of June 23, 1995, the Commission referred the matter to hearing and appointed Irene Ayala as Hearing Officer. Hearings were held on November 28, 1995, January 22, 1996, and February 5, 1996. The parties were afforded full and complete opportunity to present relevant evidence, offer argument, and examine and cross-examine witnesses.

On May 28, 1996, Hearing Officer Ayala issued her Report. Exceptions were filed by the Sheriff on June 1, 1996.

The underlying issue in this case is simple -- whether or not Deputy Kenney was improperly denied union representation during a "supervisory inquiry". Within this context, the Sheriff argues that a "supervisory inquiry" is non-disciplinary in

nature, as opposed to an investigatory interview within the purview of Weingarten¹, which clearly triggers the right to union representation with certain caveats.

Hearing Officer Ayala correctly found that the basic test of whether or not Weingarten rights are triggered had to do with a 'reasonable belief' standard:

*"What is critical in this case was Deputy Kenney's reasonable belief his interview with Lt. Adrid could result in discipline."*²

With respect to an analysis of the Weingarten standards as applied to this specific case, the Hearing Officer correctly noted the salient issue:

*"Yet, it appears that Respondent's cases support the Charging Party's position in that based on the evidence presented at the hearings, Lt. Andrid did seriously consider imposing some discipline against Deputy Kenney for his conduct..."*³

The Hearing Officer's findings regarding both the subjective fears of Deputy Kenney and the intentions of Lt. Adrid have to do with issues of credibility and demeanor that the Commission will not disturb.

Finally, we agree with Hearing Officer Ayala's analysis that the Respondents claim of collateral estoppel is misplaced⁴. We would also point out that as the administrative body charged with determination of whether or not the Employee Relations Ordinance has been violated, the Commission has original jurisdiction in any event.

¹ NLRB v. J. Weingarten, Inc (1975) 420 U.S. 251

² Report, p.12

³ Report, p.14


⁴ Report, p.10

ORDER

IT IS HEREBY ORDERED, that the Hearing Officer's Report in UFC 14.83 is adopted as follows:

- 1) The Charge that the County violated Section 12 (a)(1) of the Ordinance by denying Deputy Kenney representation during his meeting with Lt. Adrid on January 11, 1995 is sustained.
- 2) The Sheriff is directed to cease and desist such denial of representation for Deputy Kenney.

DATED at Los Angeles, California, this 18th day of December, 1996.


Joseph Gentile, Chair
Paul Doyle, Commissioner
Arthur Hernandez, Commissioner