

STATE OF RHODE ISLAND

SUPERIOR COURT

KENT, SC)

WARWICK SCHOOL COMMITTEE,

Plaintiff,)

vs.)

C.A. No. KC 92-622

RHODE ISLAND STATE LABOR
RELATIONS BOARD, ET AL.,)

Defendant.)

JUDGMENT

This action came before the Court, Mrs. Justice Famiglietti, presiding, on August 18, 1992, for a decision of the Court on plaintiff-appellant, the Warwick School Committee's, appeal of the State Labor Relations Board's Decision and Order in Case No. ULP-4518 dated May 18, 1992, a copy of which is attached to plaintiff's complaint. After consideration of the briefs of the parties and a review of the record made before the State Labor Relations Board, it is Ordered and Adjudged as follows:

The Decision and Order of the State Labor Relations Board in Case No. ULP-4518 dated May 18, 1992 is reversed.

Entered as a Judgment of this Court this _____ day of _____, 1992.

Per Order:

Clark of Court

ENTER:

Melanie Famiglietti
Justice of the Superior Court

)
Form of Judgment
Submitted By:

James M. Green

JAMES M. GREEN, Esq.
Powers, Kinder & Keeney
1400 Turks Head Building
Providence, RI 02903
(401) 454-2000
RI Bar #3590

CERTIFICATION

I hereby certify that on the 28th day of August, 1992, a true and correct copy of the foregoing was sent by U.S. first class mail, postage prepaid, to: Richard Skolnik, Esq., 321 South Main Street, Providence, RI 02903; and Attorney Hogan 201 Waterman Avenue, East Providence, RI 02914.

James M. Green

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

KENT, Sc.

SUPERIOR COURT

WARWICK SCHOOL COMMITTEE)

)

Vs.)

KC/92-0622

)

RHODE ISLAND STATE LABOR)

RELATIONS BOARD and)

WARWICK TEACHERS' UNION)

DISTRICT COUNCIL, ET AL)

DECISION RENDERED BY MRS. JUSTICE FAMIGLIETTI

AUGUST 18, 1992

APPEARANCES NOT GIVEN ON THE RECORD

DAWN C. DAGLIERI
COURT REPORTER

C E R T I F I C A T I O N

I, Dawn C. Daglieri, hereby certify that the succeeding pages, 1 through 13 inclusive, are a true and accurate transcript of my stenographic notes.


Dawn C. Daglieri
Court Reporter

AUGUST 18, 1992, MORNING SESSION

1
2 THE CLERK: Daily calendar for August 18, 1992.
3 KC/92-0622, Warwick Teachers' Union versus Warwick
4 School Committee.

5 MR. SKOLNIK: Ready, Your Honor.

6 THE COURT: That matter is here for decision today.
7 This matter is before the Court on the Plaintiff's
8 appeal of a final agency decision rendered by the Rhode
9 Island State Labor Relations Board ordering the
10 plaintiff to enter into and execute the collective
11 bargaining agreement orally agreed upon by the plaintiff
12 and the Warwick Teachers' Union.

13 The plaintiff is seeking reversal of the State
14 Labor Relations Board decision. Jurisdiction is in this
15 court pursuant to Rhode Island General Laws 42-35-15 and
16 Rhode Island State Labor Relations Act, Rhode Island
17 General Laws 28-7-1, et seq.

18 On March 19th of 1991, representatives of the
19 Warwick Teachers' Union, Local 915, met with
20 representatives of the Warwick School Committee for the
21 express purpose of negotiating a new teachers' contract.
22 The Union was represented by Edward J. McElroy, Jr.,
23 chief negotiator; and the School Committee was
24 represented by a negotiating team of committee members,
25 Jane Austin, Robert Quinlan, and Chief Negotiator Robert

1 Watt, Esquire.

2 Ground rules were agreed to by the parties and
3 officially acknowledged by both Mr. McElroy and Mr. Watt
4 on March 19th of 1991. In particular, Ground Rule No. 6
5 states, "When tentative agreement is reached on any
6 material, it will be so initiated by the respective
7 spokesmen. Agreement reached on individual items shall
8 be tentative and contingent upon total agreement."

9 Pursuant to the ground rules, numerous negotiating
10 sessions were held commencing in March of 1991 and
11 continuing through September 10th of 1991. The final
12 oral agreement was purportedly reached on September
13 10th, 1991.

14 On October 2nd of 1989, the Warwick Teachers'
15 Union, Local 915, filed an unfair labor practice charge
16 against the Warwick School Committee because the
17 committee refused to execute a written collective
18 bargaining agreement encompassing the terms of the
19 September 10th, 1991 oral agreement.

20 On October 29th, 1991, the Rhode Island State Labor
21 Relations Board issued a complaint against the Warwick
22 School Committee. The complaint alleged that the
23 Warwick School Committee had engaged in an unfair labor
24 practice by refusing to sign a contract in the form and
25 content agreed to by its representatives and had

1 therefore violated the policies and provisions of the
2 Rhode Island State Labor Relations Act, Title 28,
3 Chapter 7, Section 13 of the Rhode Island General Laws.

4 The Warwick School Committee denied the violation,
5 and a formal hearing was convened on November 21st,
6 1991. Subsequent hearings were held on December 9th,
7 1991, January 6th, 1992, and January 24th, 1992. The
8 State Labor Relations Board rendered its decision on May
9 18th, 1992.

10 In that May 18th decision, the State Labor
11 Relations Board made the following order: "Order.
12 Paragraph 1, the respondent, Warwick School Committee,
13 shall cease and desist from refusing to enter into and
14 execute a written collective bargaining agreement
15 including the terms and conditions orally agreed upon
16 during the negotiating period of March 19th, 1991 up to
17 and including September 10th, 1991." And Paragraph 2 of
18 that Order, "The respondent shall, within thirty days of
19 the date hereof, enter into and execute a written
20 collective bargaining agreement in accordance with the
21 terms and conditions as set forth in Union Exhibit No.
22 5, which terms and conditions were orally agreed upon
23 during the negotiating period of March 19th, 1991 up to
24 and including September 10th, 1991." Paragraph 3, I'm
25 reading from the same Order, "The respondent is ordered

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and directed to pay to the members of Local 915 all benefits they would have received had the respondent executed and implemented a written collective bargaining agreement including all changes as provided for and set forth in Union Exhibit No. 5 including reimbursement for the third personal day.

Thereafter, the School Committee appealed to this Court claiming there was no binding agreement due to the lack of authority in its negotiating committee.

The Superior Court review of an administrative decision is controlled by Rhode Island General Laws 42-35-15, Subsection G, which provides as follows:

"Judicial review of contested cases, Subsection G, the Court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The Court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are; one, in violation of constitutional or statutory provisions; two, in excess of the statutory authority of the agency; three, made upon unlawful procedure; four, affected by other error of law; five, clearly erroneous in view of the reliable, probative,

1 and substantial evidence on the whole record; or six,
2 arbitrary or capricious or characterized by abuse of
3 discretion or clearly unwarranted exercise of
4 discretion."

5 Essentially, when reviewing an agency decision, the
6 Court must not substitute its judgment for that of the
7 agency in regard to the credibility of witnesses or in
8 regard to the weight of the evidence concerning
9 questions of fact. This principle is set forth in Costa
10 v. Registry of Motor Vehicles, 543 A.2d. page 1307.
11 Even in cases where the Court, after reviewing the
12 certified record and evidence, might be inclined to view
13 the evidence differently than did the agency, it must
14 uphold the agency decision if it finds any competent
15 evidence upon which the agency decision rests. E.
16 Grossman and Sons v. Rocha, 118 R.I. page 276, and
17 Cahoone v. Board of Review, 104 R.I. page 503.
18 Alternatively, the Court may vacate the agency decision
19 if it is clearly erroneous in view of the reliable,
20 probative, and substantial evidence contained in the
21 whole record. Thus, the Court will reverse factual
22 findings of an administrative agency only when they're
23 devoid of competent evidentiary support. Milardo v.
24 Coastal Resources Management Counsel, 434 A.2d. page
25 266.

1 At issue before this Court is whether the
2 three-member negotiating committee for the Warwick
3 School Committee had authority to bind the School
4 Committe to an oral agreement reached with the Warwick
5 Teachers' Union. The School Committee argues that the
6 negotiating team was expressly forbidden by the
7 Committee to agree to certain terms and therefore the
8 Committee cannot be bound by agreements containing those
9 forbidden terms.

10 The authority of a public agent to bind a
11 municipality must be actual. This discussion is set
12 forth in the second volume of Williston on Contracts,
13 Section 305, pages 414-423. The apparent authority
14 doctrine does not apply to the agents of states and
15 municipalities, even when the agent is unaware of the
16 limit of his or her authority.

17 The law, as it has evolved in this area, means that
18 persons dealing with municipal agents do so at their
19 peril and have a duty to accurately ascertain the bounds
20 of the agent's authority. These principles are also set
21 forth in that discussion by Professor Williston. Any
22 representations made by an agent who lacks actual
23 authority are not binding on the municipality or its
24 delegated school committee. That concept is also set
25 forth in School Committee of the City of Providence v.

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The Board of Regents, 429 A.2d. page 1297.

The Warwick Teachers' Union is arguing that the School Committee was statutorily empowered to designate persons to negotiate in its behalf and statutorily obligated to sign a written contract formalizing any prior oral agreement reached by such designated persons at the bargaining table. I would reference Rhode Island General Laws 28-9.3-3 and 4 and also reference Warren Education Association v. Lapan, 103 R.I. page 163.

Despite the accuracy of these contentions, they're theoretically misplaced in this case, in my opinion.

It's uncontroverted that the School Committee designated a negotiating committee to bargain with representatives of the Warwick Teachers' Union. The Teachers' Union arguing that this designation was equivalent to a delegation of authority to bind the School Committee because the School Committee was enabled by statute to vest such authority in its agents. However, there's ample evidence to suggest that the School Committee, in fact, made no such delegation of authority as to these terms.

The School Committee called three witnesses to establish the boundaries of the negotiating committee's authority, Jane Austin, Harold Knickie, and Walter Constantine. Austin, a member of both the School

1 Committee and the negotiating committee, testified that
2 the negotiating team was authorized to only reach
3 tentative agreements with the Teachers' Union. In
4 addition, Ground Rule 6 expressly stated, " ...
5 agreement reached on individual items shall be tentative
6 and contingent on total agreement." Austin further
7 testified that the negotiating committee was expressly
8 directed by the School Committee as a whole to agree to
9 no more than one additional personal day and that Robert
10 Watt, the chief negotiator, had been expressly told that
11 he could not agree to pay for the twenty-sixth student
12 in a class.

13 Harold Knickle, Chairman of the School Committee,
14 during the negotiations at issue, testified that the
15 negotiating committee had been directed by the School
16 Committee to agree to no more than one additional
17 personal day. Mr. Knickle also testified that Mr. Watt
18 had been expressly told that he could not agree to pay
19 for the twenty-sixth student in a class.

20 Finally, the School Committee called Walter
21 Constantine, the senior member of the School Committee,
22 who testified that the Committee had directed its
23 negotiator to agree to no more than one additional
24 personal day. Here, the testimony was reiterated that
25 the Committee never authorized payment for the

1 twenty-sixth student in a class.

2 Edward McElroy testified for the Teachers' Union
3 that Robert Quinlan, a member of the school negotiating
4 committee, stated that he had the "votes on the School
5 Committee to make agreements." Mr. McElroy also
6 testified that he and Mr. Watt had, during a one-on-one
7 conversation, agreed to a third personal day and payment
8 as well for the twenty-sixth student. Even if such an
9 agreement occurred, Mr. Watt, in my opinion, did not
10 possess the actual authority, which is required to enter
11 into such an agreement. Therefore, the School Committee
12 cannot be bound by the agreement because the authority
13 to enter into that agreement was lacking. Furthermore,
14 any representation by Quinlan that he had authority to
15 bind the School Committee creates only a question of
16 apparent authority and in no way controverts the
17 evidence of no actual authority.

18 The Teachers' Union argues that if the School
19 Committee designates persons to negotiate or bargain in
20 its behalf pursuant to Rhode Island General Laws
21 28-9.3-3, the School Committee has made an unequivocal
22 delegation of actual authority of. In essence, the
23 Teachers' Union is contending that if the entire School
24 Committee chooses not to attend negotiating sessions and
25 thereby designates a select few to attend such sessions,

1 the School Committee has automatically vested these
2 select few with authority to bind the entire School
3 Committee. This Court cannot accept this contention.

4 Rhode Island General Laws, same section 28-9.3-3,
5 states specifically, "The School Committee may designate
6 any person or persons to negotiate or bargain in its
7 behalf." The statute allows the School Committee to
8 designate certain persons to attend bargaining sessions.
9 In no way does the statute state that these persons are
10 automatically authorized to make a final binding
11 decision for the entire School Committee.

12 Rhode Island General Laws 28-9.3-4 states, "This
13 obligation to meet and confer in good faith shall
14 include the duty to cause any agreement resulting from
15 negotiations or bargaining to be reduced to a written
16 contract." This section clearly distinguishes reaching
17 an agreement from negotiating or bargaining for an
18 agreement. Taken together, the two statutes elucidate
19 the legislature's intent to separate the acts of
20 negotiating or bargaining in the School Committee's
21 behalf and the act of actually reaching a binding
22 agreement.

23 In this Court's estimation, the delegation of
24 authority by the School Committee to the negotiating
25 committee to reach agreements must be actual. That's

1 what the law requires. The Teachers' Union makes two
2 additional arguments: one, that the Teachers' Union was
3 not on notice that any agreement reached at the table
4 had to be ratified by the School Committee as a
5 condition precedent to the agreement becoming final and
6 binding and, therefore, the School Committee does not
7 have the right to reject the agreement; and two, that
8 the Teachers' Union relied on the negotiating
9 committee's authority to reach an agreement and,
10 therefore, the School Committee should be estopped from
11 denying any agreements reached. However, these
12 arguments are not persuasive because Ground Rule 6
13 notified the Teachers' Union of the negotiating
14 committee's limited authority.

15 After reading the transcript of the hearing, I have
16 determined that the evidence clearly suggests that the
17 designated negotiating team for the School Committee did
18 not have actual authority to enter into binding
19 agreements. The Court need not reach the issue of
20 whether its view of the evidence differs from the
21 Board's view of the evidence. It's clear from the
22 Board's decision that it found actual authority in the
23 negotiating committee based on 28-9.3-3 and 4.

24 In my opinion, the Board's conclusion in this
25 respect is erroneous as a matter of law. In it's

1 decision, the Board states, " ... McElroy had no
2 knowledge that Watt had no such authority. McElroy
3 testified that he was led to believe by both Watt and
4 Quinlan that they had the authority and with respect to
5 Quinlan that he had the votes on the School Committee to
6 support him in any decision he made. It's the Board's
7 conclusion that the negotiating committee did have
8 authority to bind the School Committee." The Board's
9 conclusion was partially based upon a finding of
10 apparent authority in the negotiating committee. As
11 stated previously, the apparent authority doctrine is
12 inapplicable to the agents of states and municipalities.

13 Therefore, the Board's finding in this respect is
14 also erroneous as a matter of law, in my opinion. No
15 agreement was reached on September 10th, 1991 with
16 regard to the third personal day and payment for the
17 twenty-sixth student because the negotiating committee
18 had no actual authority to reach such agreement. It's
19 equally clear that the two sides never worked out the
20 language on the managed health care, department head
21 pay, a seven-subject/six-period day, and agreement on
22 class size. In the absence of agreement between the
23 School Committee and the Teachers' Union, the School
24 Committee cannot be ordered to enter into a written
25 contract with the Teachers' Union.

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So for all of the foregoing reasons and based upon my reading of the transcript of all of the proceedings, the Court is going to reverse the decision of the State Labor Relations Board, and the Teachers' Union has its objection to my ruling.

* * * * *