

March 24, 2009

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BEFORE THE STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

| | | |
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| In the Matter of: |) | |
| |) | |
| STATE OF CALIFORNIA, Employer, |) | Unfair Practice |
| and PEACE OFFICERS OF CALIFORNIA, |) | Charge No. |
| Petitioner, and CALIFORNIA |) | SA-SV-171-S |
| STATEWIDE LAW ENFORCEMENT ASSOC., |) | |
| Exclusive Representative. |) | |
| |) | |
| _____ |) | |

MARCH 24, 2009

SHAWN CLOUGHESY
Administrative Law Judge

PUBLIC EMPLOYMENT RELATIONS BOARD
1031 18th Street, Room 214
Sacramento, CA

Transcribed by: Leisa M. Miller

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APPEARANCES

Administrative Law Judge

SHAWN CLOUGHESY

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1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: So, with that,
2 we'll --

3 THE WITNESS: Do you want this back or --

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yes, sir.

5 THE WITNESS: Okay.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

7 (Off the record.)

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

9 We're now back on the record. We are taking a witness,

10 Tina Brazil, via telephonically pursuant to the section
11 of the Administrative Procedure Act as set forth in the
12 Temple City precedential decision case. This is going to
13 be a witness on behalf of the Exclusive Representative.

14 Mr. Rose, is there going to be any objection to
15 taking it by telephone?

16 MR. ROSE: No objection.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And on behalf of
18 the Employer?

19 MS. TRUONG: No objection.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. So,
21 Ms. Brazil, I'm going to ask you to raise your right
22 hand.

23 (Witness sworn by the Judge.)

24 THE WITNESS: Yes, I do.

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

1 Please state your name for the record, spelling your last
2 name.

3 THE WITNESS: Tina Suzanne Brazil. B-R-A-Z-I-L.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. And
5 Ms. Brazil, I have a couple of preliminary questions.
6 And first of all, if you don't hear us when we ask a
7 question, please say so.

8 THE WITNESS: Okay.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And I'll have
10 people come forward or go backwards, or which way it
11 works. But first question I have is, did you read any
12 transcripts in regards to the prior proceedings in this
13 matter?

14 THE WITNESS: No, sir.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And
16 secondly, do you know an individual by the name of James
17 Cline?

18 THE WITNESS: James Cline?

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Right.

20 THE WITNESS: No, sir.

21 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. I'm
22 marking as Exclusive Representative double G appears to
23 be a Declaration of Tina Brazil. That document goes four
24 pages in length.

25 (Exclusive Representative's Exhibit GG marked

1 for identification.)

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And Ms. Brazil,
3 if you could turn to that fourth page?

4 THE WITNESS: Okay.

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And does your
6 fourth page have a signature on yours?

7 THE WITNESS: Yes.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And
9 do you remember when or about you signed that?

10 THE WITNESS: You know, I signed it and I didn't -- I
11 do not. I'm sorry.

12 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.
13 Well, I -- you're obviously testifying truthfully because
14 mine doesn't have a date on it either, or a location.
15 But you did sign it; is that correct?

16 THE WITNESS: Yes.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And do you
18 remember after you signed it who you sent it to?

19 THE WITNESS: I sent it to Jason Jasmine.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay.

21 THE WITNESS: Mr. Messing's office.

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. Very
23 good. Mr. Messing, any questions?

24 MR. MESSING: I have just a few questions.

25 TESTIMONY OF

1 TINA S. BRAZIL,
2 Having been duly and regularly sworn, testified as
3 follows:

4 /////

5 DIRECT EXAMINATION

6 BY MR. MESSING:

7 Q. Can you hear me, Tina?

8 A. Yeah, I can hear you.

9 Q. Okay. First of all, you say in your Declaration
10 you were elected President of CHP PSDA in about 2005.

11 A. Uh-huh.

12 Q. Okay. Prior to 2005 did you have any position in
13 either CSLEA or the CHP PSDA?

14 A. I was the Secretary for PSDA prior to that, and
15 the Division rep for Central Division for CHP
16 Dispatchers.

17 Q. Okay. And when did that first begin?

18 A. Two thousand -- it started in like June of 2003.

19 Q. Okay. Now, as an active officer in the CHP PSDA,
20 would you be in a position to know if people had
21 complaints about representation that was being rendered
22 by CSLEA?

23 A. Yes, I would.

24 Q. Okay. First of all, can you characterize how
25 people feel about the responsiveness of CSLEA when they

1 have an issue or a problem?

2 A. My membership, actually they either contact
3 either me or their Division Reps or even into our Vice
4 President. We're all open for anyone to call us at any
5 time. We do refer them to our legal counsel at CSLEA.
6 We have not had any complaints from any of our membership
7 with regards on how any of our legal counsel have handled
8 any of their issues at this point in time. And I have
9 not received any complaint since I've been in the
10 President spot.

11 Q. Okay. Now, it also says in your Declaration that
12 you are Chair of the Legal Review Committee.

13 A. Yes.

14 Q. How long have you held that position?

15 A. I've had that position for about a year.

16 Q. Okay. Now, in the position of -- well, would you
17 describe briefly what your duties are as Chair of the
18 Legal Review Committee?

19 A. The Legal Review Committee is a committee that
20 comes together every few months on issues where
21 grievances have been filed and they've now gone to the
22 last level, and now the case is being looked at, whether
23 it -- to see whether it will go to arbitration or not.
24 And then we have -- the Committee members on there look
25 at the file. They vote -- you know, they make the

1 motions to decide what goes forward and what does not.

2 As the chairperson on that Committee, I cannot vote on
3 any of those issues. It's done by the Committee members.

4 Q. Do you keep track of cases that are approved for
5 further representation?

6 A. We do have a legal secretary in the room that
7 keeps track everything. We sign off on everything that
8 we vote on, and initial. And then the Legal Department
9 there at CSLEA handles then all of that.

10 Q. Okay. And once the Legal Department gets the
11 case, do you get reports or summaries or anything further
12 after you have approved a case for representation?

13 A. Yeah. We'll get -- we'll get notice that the
14 letter has gone out advising that they're going to go
15 ahead and syndicate the arbitration or the letter that's
16 denying that the case that's going to arbitration.

17 Q. Okay. But if a case settles or goes to hearing
18 and is won or lost, are you notified as to the results?

19 A. No, we're not notified as of the results.

20 Q. Okay. Now, in your position of Chair of the
21 Legal Review Committee are you in a position where you
22 would receive -- be apt to receive complaints about
23 representation by members of CSLEA other than your
24 Dispatchers?

25 A. With my position, I'm not quite sure I understand

1 that.

2 Q. Okay. As the Chair of the Legal Review
3 Committee.

4 A. Uh-huh.

5 Q. Okay. I'm not talking about problems of
6 Dispatchers, but problems --

7 A. Right.

8 Q. -- that other CSLEA members would have, would
9 they -- are you in a position where they would be apt to
10 bring these kinds of issues to your attention?

11 A. As Chair of the Legal Review Committee, no.

12 Q. Okay.

13 A. They would not bring that to my attention and
14 not -- and any kind of normal they should not or would
15 not be bringing that to my attention.

16 Q. Okay. Just one last question, I think. Do you
17 know whether Department of Parks and Rec Comm. Operators
18 are POST certified?

19 A. Yes, they are.

20 Q. They are. Okay. Do you know at all what's
21 involved with that certification?

22 A. It's just a schedule of training that the State
23 puts out that they have to have certain blocks of
24 training, whether it be for domestic violence, critical
25 incident. They have certain blocks and certain

1 timeframes for those blocks and then to get the POST
2 certification. It's usually a two-week course that POST
3 puts on for that.

4 Q. Okay. And just one more thing is, what are
5 the -- well, do you represent -- well, can you briefly
6 indicate how many members your affiliate has, number one?
7 About how many people are in your affiliate?

8 A. My affiliate, we have right around 600 people.

9 Q. Okay. And out of those 600 can you just quickly
10 break down the different classifications that you have
11 and where they work?

12 A. Well, out of 600 of them, we have about 180
13 Dispatchers out of LA. You have 130 out of Golden Gate.
14 And then anywhere -- you have anywhere from 15 up to 50
15 something Dispatchers at the other smaller centers
16 throughout the State. And we have what we call Public
17 Safety Dispatcher I's that are call takers only. They
18 only work the phones. They do not work the radios. So
19 we have Public Safety Dispatcher II's that do both, work
20 the phones and the radio positions.

21 Q. Okay. And out of the 600, how many work for CHP?

22 A. They all work for CHP.

23 Q. Okay. Okay. So what affiliate are the
24 Department of Parks and Rec Comm. Operators in?

25 A. The Comm. Operators are under what we call CALEE.

1 Q. Okay.

2 A. Which means they're not a big enough entity to
3 have their own board of directors.

4 MR. MESSING: Okay. Okay. I'm going to pass you on
5 for questioning to Joe Rose.

6 THE WITNESS: Okay.

7 MR. MESSING: Thank you.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You're free to
9 come forward, Mr. Rose.

10 CROSS-EXAMINATION

11 BY MR. ROSE:

12 Q. Good afternoon. Or good morning, Ms. Brazil.
13 This is Joe Rose, attorney for Peace Officers of
14 California. How are you?

15 A. Good. How are you?

16 Q. I'm fine. Thank you. Are you -- thanks for
17 interrupting your morning to appear for us this morning.
18 Can you hear me okay?

19 A. Yeah. I can hear you fine.

20 Q. Okay. Great. Let me ask you a few additional
21 questions about the things that you testified to both
22 orally this morning and in your declaration. Okay?

23 A. Uh-huh.

24 Q. The 600 members approximately of your affiliate,
25 how many of those are sworn peace officers?

1 A. None of them.

2 Q. Okay. So your earlier answer with respect to the
3 satisfaction of the members of your affiliate or the
4 members of CSLEA, that was in reference to non-sworn
5 employees, true?

6 A. Right. On the first question regarding any
7 complaints?

8 Q. Correct.

9 A. Yeah. That would -- he asked strictly my
10 affiliate, yes.

11 Q. Okay. Now, are you aware of any complaints by
12 CSLEA members who are sworn peace officers?

13 A. Complaints about?

14 MR. MESSING: Yeah. I'm going to object. Vague and
15 ambiguous.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You know, I
17 don't know whether -- complaints about representation?
18 Complaints -- is that what you mean, Mr. Rose?

19 MR. ROSE: Yeah. I can restate the question.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yeah.

21 BY MR. ROSE:

22 Q. Just to clarify, Ms. Brazil, are you aware of any
23 complaints about representation by CSLEA by sworn peace
24 officers within the bargaining unit?

25 A. Have I heard of complaints? Yes.

1 Q. What complaints have you heard?

2 A. Just complaints that they're unhappy with being
3 in the same group that the non-sworn are in.

4 Q. Okay. Now, are the employees that you represent,
5 do they share that view that there should be separate
6 bargaining units for peace officers and non-peace
7 officers?

8 A. I'm sorry. They're talking overhead. I'm sorry.
9 I missed your question.

10 Q. Certainly. Do the employees that you represent
11 in your affiliate, the approximately 600 dispatchers, do
12 they -- have they expressed whether they share the view of
13 those sworn officers that you've heard from that wish to
14 be in a separate bargaining unit?

15 A. I have not heard anything from any of my people
16 that they have an opinion on it whatsoever.

17 Q. Okay. The employees that you represent in your
18 affiliate, you said they all work for CHP, right?

19 A. Yes.

20 Q. Would you agree that most of the time you spend
21 each day is interacting with traffic officers in the
22 Highway Patrol?

23 A. Yes.

24 Q. Would you say that it would be in excess of 99
25 percent of the time that you're on the radio you're

1 actually communicating with a traffic officer from the
2 Highway Patrol?

3 A. Pretty close.

4 Q. All right. So less than one percent of the time
5 you're actually communicating with someone who is not a
6 CHP officer, true?

7 A. That depends on the center. You'll have centers
8 that directly do not talk to them, but you'll have
9 centers in some of our more out locations that actually
10 will talk to those officers on the air.

11 Q. Which -- when you -- when you say "those
12 officers," are you referring to CHP officers?

13 A. No. I'm referring to like I know I have centers
14 that work in the mountain areas, you know, Redding
15 through that that actually do talk to Fish and Game
16 officers. And not State Parks, but they will talk to
17 Fish and Game officers. They will talk to Department of
18 Justice officers. And I know Department of Motor Vehicle
19 Investigators do come on the air down in the southern
20 part of California.

21 Q. Do you know -- do you know whether any of the 600
22 or so employees in your affiliate ever communicate with
23 non-sworn lifeguards on the radio?

24 A. That I would not know. Nobody's ever said that
25 they have.

1 Q. Do you know whether any of the employees that you
2 represent have ever communicated with people from OSPR,
3 O-S-P-R?

4 A. I don't know who they would be.

5 Q. You're not familiar with OSPR?

6 A. No.

7 Q. All right. Now, you mentioned POST certification
8 for Comm. Operators in Parks and Rec, right?

9 A. True.

10 Q. That POST certification you're referring to is
11 for Dispatchers, right?

12 A. Yes.

13 Q. That's not a POST certification for arrest,
14 search or seizure, right?

15 A. Correct.

16 Q. All right. And the POST certification, you must
17 have a POST certification for Dispatchers as well, right?

18 A. I happen to have one, but it is not required by
19 CHP for their Dispatchers to have one.

20 Q. Okay. Now, in the year or so that you've been on
21 the Legal Review Committee, how many grievances has your
22 Committee reviewed, or prospective grievances?

23 Grievances that are being contemplated to advance to
24 arbitration.

25 A. In a year's time, I don't know. Maybe we've

1 looked at maybe 25 to 30. And I'm trying to recall in a
2 year's time.

3 Q. How often does your Committee meet?

4 A. It just depends on the amount of cases.

5 Usually -- it's usually on a quarterly basis. It depends
6 on the amount of cases.

7 Q. So no less than quarterly, but sometimes more
8 often; is that true?

9 A. About that, yeah.

10 Q. All right. Of the 25 or 30 grievances in the
11 last year that your Committee has reviewed, can you tell
12 us how many of those were authorized to proceed to
13 arbitration?

14 A. I could not tell you that offhand. I'm sorry.

15 Q. Do you have any way of making an estimate at all,
16 or would it be a total guess?

17 A. It would be a total guess. And I wouldn't want
18 to do that.

19 Q. Okay. Of the 25 to 30 grievances in the last
20 year that you've reviewed on the Committee, how many of
21 those grievances involve matters for sworn peace officers
22 in Bargaining Unit 7?

23 A. They're probably -- I know we've had several of
24 them come in front of us. I couldn't tell you
25 specifically what they all were.

1 Q. Can you -- would it also be a total guess to
2 estimate the number of those grievances involving sworn
3 peace officers?

4 A. No, I wouldn't be able to give you the amount. I
5 could you get the amount, but I don't have it in front of
6 me now.

7 Q. Okay. How many times in your career have you
8 communicated on the radio with a Park Ranger?

9 A. I have never in my career.

10 Q. And how many times in your career have you
11 communicated with someone from the Office of Emergency
12 Services on the radio?

13 A. Office of Emergency Services? Other than when
14 they do -- from their dispatch center when they used to
15 do the test calls, probably four or five times.

16 Q. Okay. Your center is -- which center are you in?

17 A. It's called Merced CHP, but it actually sits in
18 Atwater, California.

19 Q. All right. How about other employees that work
20 in your center, same questions with respect to Park
21 Rangers and Office of Emergency Services?

22 A. Usually in our center we do not get them. We've
23 had Department of Motor Vehicle Investigators call on the
24 phone. And like usually if we get them through our
25 center, they usually call on the phone.

1 Q. And how often does that happen, does a Department
2 of Motor Vehicle Investigator call on the phone?

3 A. Not too often. We may get one every couple of
4 months.

5 MR. ROSE: All right. Thank you. Nothing further.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Ms. Truong?

7 MS. TRUONG: Nothing from us.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Messing?

9 MR. MESSING: Nothing further.

10 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Ms. Brazil,
11 thank you very much. And we're going to be going off the
12 record.

13 (Off the record.)

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Back on the
15 record. With that, moving in double G, the Declaration
16 of Tina Brazil.

17 (Exclusive Representative's Exhibit GG received
18 in evidence.)

19 MR. MESSING: Oh, you didn't admonish her.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Oh. We can call
21 her back.

22 MR. MESSING: You have a real block on this.

23 ADMINISTRATIVE LAW JUDGE CLOUGHESY: At least I can
24 because she's not going anywhere. Hold on a second.

25 Mr. Messing, I got to do the redial, because I gave you

1 back the phone number.

2 MR. MESSING: Oh, you know, I crumpled it up. Let me
3 just see if I have it here. (Number given.)

4 (Judge dialing telephone. Telephone ringing.)

5 THE WITNESS: Hello?

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yeah.

7 Ms. Brazil? Tina?

8 THE WITNESS: Yes.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yeah. Shawn
10 Cloughesy again with PERB. We're back on the record. I
11 just needed to admonish you not to discuss your testimony
12 with any other witnesses.

13 THE WITNESS: Oh, no problem, sir.

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. With
15 that, thank you very much.

16 THE WITNESS: Okay. Thank you.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Bye.

18 THE WITNESS: Bye-bye.

19 (Off the record.)

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: We're back on
21 the record. And the record will reflect, Mr. Bondshu,
22 you've reentered the hearing room. I want to remind you
23 you're still under oath as having been previously sworn
24 in.

25 (William H. Bondshu retakes witness stand.)

CERTIFICATION AND
DECLARATION OF TRANSCRIBER

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4 I, Leisa M. Miller, a duly designated transcriber of
5 Vine, McKinnon & Hall, do hereby declare and certify
6 under penalty of perjury that I have transcribed from a
7 CD recording the proceedings in the matter of STATE OF
8 CALIFORNIA, Employer, and PEACE OFFICERS OF CALIFORNIA,
9 Petitioner, and CALIFORNIA STATEWIDE LAW ENFORCEMENT
10 ASSOCIATION, Exclusive Representative, Unfair Practice
11 Charge No. SA-SV-171-S, which recording was duly recorded
12 at Sacramento, California on March 24, 2009, and that the
13 foregoing pages 1 through 189 constitute a true, complete
14 and accurate transcription of the aforementioned
15 recording to the best of my ability.

16 Dated this 14th day of April, 2009, at Dixon,
17 California.

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