
IN THE MATTER

OF

**PATRICK CRILLEY,
CARTERET BOARD OF EDUCATION
MIDDLESEX COUNTY**

:
: **BEFORE THE**
: **SCHOOL ETHICS COMMISSION**
:
: **Docket No.: C30-97**
:
: **DECISION**
:

PROCEDURAL HISTORY

This matter arises from a complaint filed on October 20, 1997, by Michelle Grandell. Therein, she alleges that Patrick Crilley, then member of the Carteret Board of Education, violated the School Ethics Act (the "Act"), N.J.S.A. 18A:12-21 et seq., by providing catering services to the Carteret Education Association ("CEA".) More specifically, she alleges that on September 30, 1997, Mr. Crilley, who owned a delicatessen, provided food for a Carteret Education Association function and was compensated for his services. She alleges that performing this service while he was a board member created a conflict of interest that violated N.J.S.A. 18A:12-24(a) through (e) of the Act.

Mr. Crilley filed his answer with the Commission on December 2, 1997. He admits to providing catering services to the CEA while he was a member on the Carteret Board, but denies having violated any provisions of the School Ethics Act.

The Commission notified the parties of its intent to discuss this matter at its March 30, 1998 meeting. It did not request their appearance. However, both parties were present, Mr. Crilley with the Board Solicitor, Viola Lordi, Esq. The Commission dismissed the complaint at its public meeting of March 30, 1998, and now adopts this decision.

FACTS

Patrick Crilley was elected to the Carteret Board of Education in April 1995. He remained on the Board until he was elected to membership on the Carteret Municipal Council effective January 1, 1998. He resigned from the Board effective December 1, 1997.¹ Mr. Crilley's wife is an elementary school teacher in the Carteret school district.

¹ Mr. Crilley argued that the complaint was moot since he resigned from the Board. However, since he was a Board member when he allegedly provided services to the union and was still a Board member when the complainant filed the charges, the Commission determined that it had jurisdiction to hear the complaint.

Mr. Crilley and his wife owned and operated a delicatessen and catering business since 1989. Since he and his wife started the business, Mr. Crilley and his wife have donated catered foods to a number of civic causes and student activities. They have also provided catered foods for many private and civic events for profit. The CEA, of which his wife is a member, used their services for many of these events long before he was a Board member. He catered at least one event for the CEA while he was a board member. The event was an official union hall meeting held on September 30, 1997. Mr. Crilley catered this event at a discount since his wife is a member.

Mrs. Crilley was a teacher in Carteret before Mr. Crilley became a member of the Board. He has never voted on any personnel decision involving his wife and has never participated in any aspect of collective negotiations between the Carteret Board and the CEA. He also has never voted on or participated in open or closed session discussions on any matter involving the Carteret Board's collective negotiations with the CEA. In addition, he has never voted on the appointment of any elementary school teacher by the Carteret Board.

ANALYSIS

Complainant urges the Commission to find that Mr. Crilley's business with the CEA while he was serving as a Board member violated N.J.S.A. 18A:12-24(a), (b), (c), (d) and (e). At the Commission's request, Ms. Grandell clarified her allegations in an October 21, 1997 memorandum. Therein, she stated that Mr. Crilley engaged in a business or transaction in substantial conflict with the proper discharge of his public duties in violation of section 24(a) of the Act. She believes that he cannot make impartial decisions regarding the CEA as a whole, individual members of the CEA, and the operation of the entire school system. She argues that he will always be wondering how his decision will affect his personal business dealings with the CEA. Last, she questions Mr. Crilley's ability to serve her best interests as a taxpayer when he derives personal income from a group employed by the Board.

The Commission understands Ms. Grandell's concerns; however, Mr. Crilley already had a conflict of interest with the CEA since his wife is a member. The Commission finds that Mr. Crilley adequately handled his conflict by abstaining on the matters noted in the above facts. He was not prohibited from doing business with the union since he was already abstaining from the pertinent union issues. The Commission does not agree that his one-time business with the CEA colored his decisions with respect to the operation of the entire school system. Thus, the Commission concludes that this was not a "substantial conflict" as set forth in subsection 24(a) that abstaining from participating in union matters could not cure.

Ms. Grandell also alleges that Mr. Crilley used his official position to secure unwarranted privileges for himself and his business in violation of section 24(b) when he obtained the catering job from the CEA. She states that Mr. Crilley has access as a board member to the schedules of and contacts for such union meetings and has used this knowledge to obtain catering jobs. The Commission finds this allegation to be without merit. There are no factual allegations in the

complaint, nor did the Commission's investigation find that Mr. Crilley used his position as a board member to secure business. Mr. Crilley was catering for the union before he became a Board member. In addition, Mrs. Crilley's membership in the CEA is probably a better source of information than anything he could gain from his Board membership.

Ms. Grandell alleges a violation of N.J.S.A. 18A:12-24(c), but she does not really set forth any facts to support such a violation. Section 24(c) prohibits a board member from acting in his official capacity in a matter in which he has a personal or financial involvement. Mr. Crilley does not dispute that he had a financial involvement with the CEA, but says he abstained in matters in which he had a conflict of interest. Ms. Grandell has not pointed to any specific official votes or discussions in which Mr. Crilley has participated when he should have abstained. In her written addendum to the Commission, she indicates that she has greater concern with the overall issue of a Board member doing business with the union. For these reasons, the Commission concludes that there is no probable cause to credit the allegation that Mr. Crilley violated N.J.S.A. 18A:12-24(c).

Next, Ms. Grandell alleges a violation of N.J.S.A. 18A:12-24(d). Section 24(d) provides:

No school official shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties.

Ms. Grandell questions the ability of Mr. Crilley to adequately represent her interests as a taxpayer when the union is a client of his business. In the present case, Mr. Crilley provided services to the CEA in just one instance of which the Commission is certain. In that one instance, he catered for the union at a reduced rate, making little or no profit. He recused himself from his official duties in matters involving the union as he had since becoming a Board member. If there were matters that Mr. Crilley discussed that arguably impacted on the terms of employment for CEA members, then the Commission would be more concerned with the fact that his wife was a member of the union than the one instance that he catered an event for it. On the facts of this case, the Commission cannot conclude that he undertook a service that might reasonably be expected to prejudice his independence of judgment. The Commission deems these facts to be unique and does not comment here on the more general question of whether a Board member should be in a contractual relationship with the union. The Commission does not encourage or condone such relationships.

Last, Ms. Grandell states that Mr. Crilley violated N.J.S.A. 18A:12-24(e), which states:

No school official, or member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. ...

The information before the School Ethics Commission does not indicate that Mr. Crilley ever solicited work from the union. Thus, there is clearly no information that he solicited work based on an understanding that the union would use his services in exchange for favorable consideration while discharging his official duties. The CEA was aware, well before Mr. Crilley was even elected to the Board, that he would have to abstain from any matters involving the union because his wife is a union member. Thus, it is an impossibility that the union would have anything to gain from Mr. Crilley by using his catering services. It is more plausible that the union sought to use the Crilleys' catering services because the business is co-owned by one of its own members, Mrs. Crilley. For these reasons, the Commission finds no probable cause to credit the allegations that Mr. Crilley violated N.J.S.A. 18A:12-24(e).

CONCLUSION

For all the foregoing reasons, the Commission finds no probable cause to credit the allegations that respondent violated N.J.S.A. 18A:12-24(a), (b), (c), (d) or (e) of the School Ethics Act and hereby dismisses the complaint.

This decision constitutes final agency action and thus may be appealed directly to the Appellate Division of the Superior Court.

Paul C. Garbarini
Chairperson

Resolution Adopting Decision -- C30-97

Whereas, the School Ethics Commission has considered the pleadings filed by the parties and the documents submitted in support thereof and has considered the arguments raised by parties in testimony; and

Whereas, the Commission found no probable cause to credit the allegations in the complaint that respondent violated N.J.S.A. 18A:12-24(a), (b), (c), (d) or (e) of the School Ethics Act; and

Whereas, the Commission has reviewed the proposed decision of its staff setting forth the reasons for its conclusion; and

Whereas, the Commission agrees with the proposed decision;

Now Therefore Be It Resolved that the Commission hereby finds no probable cause to credit the allegations that respondent violated N.J.S.A. 18A:12-24(a), (b), (c), (d) or (e) of the School Ethics Act, dismisses the charges against him and adopts the proposed decision as its decision in this matter.

Paul C. Garbarini, Chairman

I hereby certify that the Resolution was duly adopted by the School Ethics Commission at its public meeting on April 28, 1998.

Lisa James-Beavers
Executive Director

[c3097dec/c:lisajb]