

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

STEWARD CARNEY HOSPITAL, INC.,
d/b/a CARNEY HOSPITAL, A CARITAS
FAMILY HOSPITAL

Employer

and

Case 1-RC-22525

UNITED FEDERATION OF SPECIAL
POLICE & SECURITY OFFICERS, INC.

Petitioner

PETITIONER'S STATEMENT IN OPPOSITION TO
EMPLOYER REQUEST FOR REVIEW

On April 14, 2011, the Employer requested review of the Regional Director's Decision and Direction of Election issued on March 31, 2011 in the captioned case. Pursuant to Section 102.67(e) of the Board's Rules and Regulations, Petitioner hereby states its opposition to the Employer's request.

The Employer request review of the Regional Director's finding that the record is insufficient to establish that Sergeants and Officers in Charge (OIC) exercise authority in the area of employee discipline or the effective recommendation of discipline so as to make them supervisors within the meaning of Section 2(11) of the Act. The Employer rests its case in this regard largely on Employer Exhibit 6, a "Record of Conversation"

dated March 24, 2010, presented to Security Officer Mario Joseph and bearing the signatures of Director of Security Scott Martin and Officer in Charge Harry Sanon. Martin testified that Officer Joseph was ultimately terminated, but he did not testify regarding what part, if any, Exhibit 6, played in that termination. While Martin describes Exhibit 6 as "... a disciplinary action taken on an officer.", and states that "This is a write-up from Harry Sanon on Mario Joseph.", it is unclear if that means that Sanon actually authored the record or simply reported the incidents cited in it and signed off as witnessing its presentation. For all the record reveals, the "record of conversation" could have been authored by the Personnel Office. More importantly there is no evidence that the "record of conversation" would have issued or would have had any effect whatsoever without Director Martin's signature. Thus, as the Regional Director found, Exhibit 6 and Security Director Martin's testimony regarding it, fail to establish that Sergeants and Officers in Charge have authority to discipline employees or effectively recommend discipline.

The Employer asserts that Sergeant Anthony Gentile admitted that he could have written up a security officer up for failure to properly perform his duties, but the context of that testimony makes it clear that Sergeant Gentile was talking about reporting such issues in his daily shift report to Director Martin, not in a "record of conversation" or other disciplinary document. Thus, immediately following Gentile's testimony cited by the Employer at page 6 of the Request for Review, he continued as follows:

Hearing Officer Fein: Have you written up anyone else?

The Witness (Gentile): No. No. Anything that happens, it goes on my evening shift report. (underlining added) See, I don't have any type of a thing, a discipline slip that says you have been found in violation of ,[Trasncrypt p. 127] you know. Any violations, I direct to Scott, and Scott will ask me, Tony, exactly what happened. I'll tell him blow by blow.

The Employer did not request review of the Regional Director's other findings. Inasmuch at the Regional Director's findings are fully supported by the record, the Employer's request for review should be denied.

Respectfully submitted,

United Federation of Special
Police & Security Officers, Inc.



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STATEMENT OF SERVICE

I, Christopher G. Roach, hereby state that on April 18, 2011, I served a true copy of this document on Rosemary Pye, Regional Director, Region 1 and Justin F. Keith, Esq. of Greenberg Traurig, attorney for the Employer, via e-mail.

