



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

LOCAL 2715, AMERICAN FEDERATION STATE, COUNTY :	:	
AND MUNICIPAL EMPLOYEES, AFL-CIO	:	
	:	
Complainant	:	CASE NO. A-0428:8
	:	
and	:	DECISION NO. 82-37
	:	
HILLSBOROUGH COUNTY SHERIFF'S DEPARTMENT,	:	
JAMES F. O'FLYNN, SHERIFF	:	
	:	
Respondent	:	
	:	

Representing the Complainant, Local 2715, AFSCME

James C. Anderson, Executive Director, Council 68
James Gray, President, Local 2715
Harry Anagnos, grievant

Representing the Respondent, Hillsborough County
Sheriff's Department

David Horan, Esquire, Asst. County Attorney
Richard W. Roulx, Business Manager
Nelson MacAskill, County Corrections Administrator
James O'Flynn, Sheriff
Patricia C. Roody, Asst. Administrator, Nursing Home

BACKGROUND

This matter came on for hearing before the Board on May 4, 1982, pursuant to an unfair labor practice charge filed by Local 2715 against the Hillsborough County Sheriff's Department on behalf of Harry Aganos, a deputy sheriff. The complaint (as amended orally at the hearing) essentially alleges that the Hillsborough County Sheriff transferred Mr. Anagnos from a full-time to a part-time basis on account of his Union activities. The Sheriff denies this charge, and further responds by citation to his statutory authority to hire and fire deputies.

FINDINGS OF FACT

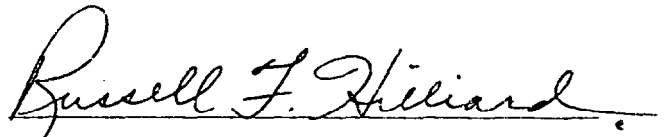
Suffice it to say that the petitioner presented no evidence that the employment change made by the sheriff was motivated by Union activities of Mr. Anagnos. In fact, Mr. Anagnos admitted that he knows of no such motivation, but argues from the lack of any logical explanation for the transfer that we should infer such a motivation.

Regardless of the appropriate burden of production or persuasion to be placed on a complaining employee in such circumstances, it has not been met here. There must be some evidence, however small or circumstantial, on which to base a finding that the action was motivated by anti-Union animous.

This resolution makes it unnecessary for us to consider the difficult legal issues posed by the many statutory provisions concerning sheriffs and their deputies.

DECISION AND ORDER

Accordingly, the petition must be, and hereby is, dismissed for lack of evidence.


Russell F. Hilliard, Esquire

Signed this 3rd day of June, 1982.

Chairman Robert E. Craig, presiding. By unanimous vote of Members Hilliard, Mayhew, Osman. Also present, Evelyn C. LeBrun, Executive Director.