

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COLIN MAYCOCK, et al.,

Plaintiff(s),

v.

CHRISTOPHER DUGOVICH, et al.,

Defendant(s).

Case No.: 2:19-cv-00562-TSZ

DECLARATION OF CHRIS DUGOVICH
IN SUPPORT OF MOTION TO DISMISS

I, Chris Dugovich, declare and states as follows:

1. I am the President and Executive Director of Washington State Council of County and City Employees, AFSCME Council 2.

2. I am a party to the Judicial Panel appeal described in Plaintiffs' First Amended Complaint and am familiar with the April 2, 2019 decision of the full Judicial Panel described in the First Amended Complaint.

3. On May 10, 2019, AFSCME President Lee Saunders sent a letter to the Judicial Panel Chairperson requesting reconsideration of the Judicial Panel's decision. Attached as **Exhibit A** is a true and correct copy of President Saunders' letter.

4. On June 3, 2019, the Judicial Panel convened to reconsider its April 2, 2019 decision insofar as it addressed the right of members to inspect certain financial information.

DECLARATION OF CHRIS DUGOVICH
IN SUPPORT OF MOTION TO DISMISS - 1
CASE NO. 2:19-cv-00562-TSZ

18 WEST MERCER ST., STE. 400 **BARNARD**
SEATTLE, WASHINGTON 98119 **IGLITZIN &**
TEL 800.238.4231 | FAX 206.378.4132 **LAVITT LLP**

I declare under penalty of perjury under the laws of the United State of America that the foregoing statements are true and correct.

Chris Dugovich

CERTIFICATE OF SERVICE

I hereby certify that on the date noted below, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to those attorneys of record registered on the CM/ECF system.

Attorney for Plaintiffs

Nicholas Power
The Law Office of Nicholas Power
540 Guard St., Suite 150
Friday Harbor, WA 98250
nickedpower@gmail.com

James P. Grifo
The Law office of James P. Grifo, LLC
164 Dougherty Ln
Friday Harbor, WA 98250
jpg@Grifolaw.com

Signed this 14th day of June, 2019.



Esmeralda Valenzuela, Paralegal

EXHIBIT A

TO

DECLARATION OF CHRIS DUGOVICH

IN SUPPORT OF

WSCCCE COUNCIL 2'S MOTION TO DISMISS



Lee Saunders
President

Elissa McBride
Secretary-Treasurer

Vice Presidents

Jody Barr
New Britain, CT

Se'Adoreia K. Brown
Miami Springs, FL

Richard L. Caponi
Pittsburgh, PA

Stacy Chamberlain
Portland, OR

Connie Derr
Albuquerque, NM

Greg Devereux
Olympia, WA

Daniel DiClemente
North Chili, NY

Danny Donohue
Albany, NY

Denise Duncan
San Dimas, CA

David R. Fillman
Harrisburg, PA

Henry A. Garrido
New York, NY

Johanna Puno Hester
San Diego, CA

Danny J. Homan
Des Moines, IA

Nicholas J. LaMorte
Commack, NY

John A. Lyall
Worthington, OH

Kathryn Lybarger
Oakland, CA

Roberta Lynch
Chicago, IL

Christopher Mabe
Westerville, OH

Glenard S. Middleton Sr.
Baltimore, MD

Douglas Moore Jr.
San Diego, CA

Frank Moroney
Boston, MA

Michael Newman
Chicago, IL

Henry Nicholas
Philadelphia, PA

Debbie Parks
Hamilton, NJ

Randy Perreira
Honolulu, HI

Steven Quick Sr.
Indianapolis, IN

Lawrence A. Roehrig
Lansing, MI

Joseph P. Rugola
Columbus, OH

Alan F. Shanahan
Los Angeles, CA

Paul Spink
Milwaukee, WI

Mary E. Sullivan
Albany, NY

Braulio Torres
San Juan, PR

Anthony Wells
New York, NY

John P. Westmoreland
South St. Paul, MN

May 10, 2019

Richard Abelson, Judicial Panel Chairperson
AFSCME, AFL-CIO
1625 L Street, N.W.
Washington, DC 20036

RE: JP Case No. 18-80-A
Maycock v. Dugovich, et al.

Dear Brother Abelson:

It has come to my attention that the above-referenced matter has been appealed to the International Union's 2020 Convention. I am concerned that the decision of the Judicial Panel as it relates to the right of members to inspect certain financial information does not comport with my interpretation of the International Constitution or with earlier Judicial Panel precedent. I am therefore requesting that you treat the appeal to the Convention as a request for reconsideration of the Full Panel's decision regarding this issue.

I am further requesting that you convene the Full Panel on an expedited basis by teleconference to reconsider the matter and that written reasons be provided for either upholding or overturning the Hearing Officer's decision.

In solidarity,

LEE SAUNDERS
President

LS/WL:lb

cc: Judith Rivlin, General Counsel
Mike Sukal, Director, OFS
Walter Blair, Western Regional Director
Chris Dugovich, President/Executive Director, AFSCME Council 2
Colin Maycock, President, AFSCME Local 1849

EXHIBIT B

TO

DECLARATION OF CHRIS DUGOVICH

IN SUPPORT OF

WSCCCE COUNCIL 2'S MOTION TO DISMISS

JUN 07 2019

BARNARD IGITZIN & LAMITT LLP



Lee Saunders
President

Elissa McBride
Secretary-Treasurer

Richard Abelson
Judicial Panel Chairperson

Judicial Panel Members:

Michael DeMarco
Staten Island, NY

Debra Garcia
Indianapolis, IN

Keith January
Detroit, MI

Gerard Jolly
Grove City, OH

Theodorah McKenna
Los Angeles, CA

Dayton Nakanelua
Honolulu, HI

Steve Tully
Jersey City, NJ

Timm Twardoski
Helena, MT

Serena Vergin
St. Cloud, MN

Andrew Washington
Washington, DC

June 4, 2019

Colin Maycock
PO Box 432
Friday Harbor, WA 98250

Chris Dugovich
PO Box 750
Everett, WA 98206

JUDICIAL PANEL CASE NO. 18-80-A
Maycock v. Dugovich, et al.

DECISION ON RECONSIDERATION

GREETINGS:

Enclosed is the Full Judicial Panels' decision on reconsideration in the above referenced case.

In Solidarity,

Richard Abelson
Judicial Panel Chairperson

RA:spp

cc: Lee Saunders, President
Elissa McBride, Secretary-Treasurer
Walter Blair, Regional Director O&FS
Ron Fredin (accused party)
J. Pat Thompson (accused party)
Kathleen Etheredge (accused party)
Ed Stemler (accused party)
Danielle Franco-Malone
James Grifo, Attorney at Law

American Federation of State, County and Municipal Employees, AFL-CIO

TEL (202) 429-1210 FAX (202) 822-8169 1625 L Street, NW, Washington, DC 20036

JUDICIAL PANEL CASE NO. 18-80-A

Maycock v. Dugovich, et al.

DECISION ON RECONSIDERATION

The decision in Judicial Panel Case No. 18-80-A results from charges filed by Local 1849 president and Council 2 executive board member Colin Maycock against Council 2 Executive Director Chris Dugovich, and Council 2 General Counsel Ed Stemler, and others who were later voluntarily dismissed by the Charging Party. The charges filed by Brother Maycock were threefold, alleging: (1) the Accused Parties refused to provide, upon Charging Party's request, information consisting of the current compensation, including salaries, wages and fringe benefits, paid to specified individuals employed by Council 2, as well as a list of all Council 2 employees and their job titles, in derogation of the International Constitution's guarantee of members' rights ("Charge 1"); (2) the Accused Parties' refusal to provide "administrative information" regarding Council 2's processing of grievances arising under collective bargaining agreements ("Charge 2"); and (3) failure to obtain ratification by the Council 2 executive board of the employment of Council 2's General Counsel ("Charge 3"). Brother Maycock brought his charges pursuant to Article X, Sec. 2 of the International Constitution. Only Charge 1 involves an interpretation and application of the International Constitution and is the subject of this decision.

Following referral to Judicial Panel member Theodora McKenna and her convening of a trial on the charges, Sister McKenna issued a decision on January 4, 2019, finding the Accused Parties not guilty in all respects. The Charging Party appealed Sister

McKenna's decision to the full Judicial Panel, which considered the appeal on March 26, 2019, and issued its decision confirming the trial officer's decision on April 2, 2019. The Charging Party then filed an appeal of the Judicial Panel decision to the International Convention, properly addressed to Secretary-Treasurer McBride by email dated April 15, 2019. By letter dated May 10, 2019, President Saunders directed the Judicial Panel to treat Brother Maycock's appeal to the convention as a request for reconsideration, expressing concern that the decision does not properly comport with prior interpretations of the International Constitution with respect to the right of members to inspect certain financial information. President Saunders further requested the Judicial Panel to convene on an expedited basis by teleconference.

On June 3, 2019, the Judicial Panel convened to reconsider its April 2, 2019 decision only insofar as it addressed the right of members to inspect certain financial information. The parties, having been informed in advance of the opportunity to address the Panel, each elected to appear remotely by teleconference and to address the Panel through their respective counsel. Upon further deliberation and consideration of the record, previous constitutional interpretations, and the arguments of the parties, the Judicial Panel withdraws its April 2, 2019 decision, and makes the following findings and decision.

DECISION OF THE FULL JUDICIAL PANEL

Charge 1, brought pursuant to Article X, Section 2(A) for a violation of the International Constitution, asserts the Accused Parties violated Section 6 of the Bill of

Rights for Union Members of the International Constitution, which provides the following guarantee:

Members shall have the right to a full and clear accounting of all union funds at all levels. Such accounting shall include, but not be limited to, periodic reports to the membership by the appropriate fiscal officers and periodic audits by officers elected for that purpose or by independent auditors not otherwise connected with the union.

The purpose and intent of this provision is clear: to ensure transparency and accountability to the membership as to the use and expenditure of their funds, made on their behalf, across all levels of the union. The right to obtain such information is also necessary for the informed exercise of other rights guaranteed to members, for example, Bill of Rights Sec. 7, which guarantees members the right to "full participation, through discussion and vote, in the decision making processes of the union, and to pertinent information needed for the exercise of this right." Guided by these principles, we have previously sustained charges and issued discipline when an officer has refused to disclose individual employee salaries upon request by a member. Such was our decision in Judicial Panel Case No. 14-118, Monroe v. Hughes, et al., in which the Judicial Panel affirmed the trial officer's decision to sustain a charge over the accused party's refusal to accede to an executive board member's reasonable request for the production of wage and benefit information broken down by employee. We directed such information be made available, "provided that appropriate precautions are taken to protect confidential information."

As in Judicial Panel Case No. 14-118, Brother Maycock's request for financial disclosure was similarly reasonable. With respect to specified employees of Council 2, Brother Maycock requested information regarding their 2017 year-end gross wages, medical, retirement, and other fringe benefits and allowances paid to them by Council 2. Certainly, Council 2 has this information and can produce it. Brother Maycock also requested but was not provided a list of Council 2's employees and their job titles. Although not directly involving the expenditure of union funds, understanding who is employed by the union and in what capacity is a predicate to understanding the appropriateness of the expenditure of union funds, and the union's finances generally, and therefore, was information Brother Maycock was reasonably entitled to receive under the Bill of Rights, Sections 6 and 7.

Moreover, it is appropriate to qualify the provision of financial information with an assurance that the requesting member will maintain the confidential and proprietary nature of the information. Therefore, as we have recognized previously, (for example, in Judicial Panel Case Nos. 13-100, Shanahan v. Carey & Solis, and 14-118 Monroe v. Hughes, et al.) considerations of privacy and confidentiality justify the adoption of reasonable conditions to ensure such information is protected from general disclosure. However, as we have previously noted, (for example in Judicial Panel Case No. 17-99, Scandalios v. Rodriguez & Johnson) the conditions imposed on the provision of financial information may not be unreasonable.

The Trial Officer's decision with respect to Charge 2 and Charge 3 is not before us for reconsideration and is affirmed in all respects.

For the foregoing reasons, upon reconsideration of the Trial Officer's decision on Charge 1, the previous Judicial Panel decision issued on April 2, 2019, is superseded to the extent it is inconsistent with this decision. The Judicial Panel sustains Charge 1 and finds Brother Dugovich guilty of violating the Bill of Rights, Section 6, and issues the penalty of a reprimand. He is directed not to repeat the violation in the future.

The record contains no evidence that Brother Stemler was authorized, or responsible for, responding to Brother Maycock's request for information. Accordingly, we affirm the Trial Officer's decision finding Brother Stemler not guilty.

Going forward, it is expected that Council 2 will comply with this decision and make arrangements to permit Brother Maycock, and any other requesting member, to view the requested information under reasonable conditions intended to preserve the confidentiality of such information.

DATED: June 3, 2019

BY THE FULL JUDICIAL PANEL

Panel members voting aye: **Richard Abelson, Dayton Nakanelua, Steve Tully, Keith January, Gerard Jolly, Michael DeMarco, Serena Vergin**

Panel members voting no:

Panel members not participating: **Theodorah McKenna, Timm Twardoski**

Panel members absent: **Andrew Washington**

EXHIBIT C

TO

DECLARATION OF CHRIS DUGOVICH

IN SUPPORT OF

WSCCCE COUNCIL 2'S MOTION TO DISMISS



WASHINGTON STATE
COUNCIL OF COUNTY AND CITY EMPLOYEES
AFSCME AFL-CIO

Affiliated with:
American Federation of State, County & Municipal Employees
Washington State Labor Council

CHRIS DUGOVICH President/Executive Director June 11, 2019

Colin Maycock
PO Box 432
Friday Harbor, WA 98250

RE: Judicial Panel Case No. 18-80-A

Dear Colin,

As you know, the Judicial Panel issued a decision on reconsideration in the above-referenced matter on June 4, 2019. That decision requires Council 2 to "make arrangements to permit Brother Maycock, and any other requesting member, to view the requested information under reasonable conditions intended to preserve the confidentiality of such information." Specifically, the decision addressed nine items for four Council 2 employees (Chris Dugovich, Pat Thompson, Audrey Eide, and Barbara Corcoran):

1. The gross wages paid in 2017;
2. The 2017 monthly employer medical contribution;
3. The 2017 annual employer-paid amount of H.R.A. or H.S.A. plans;
4. The 2017 annual value of employer-paid per diem;
5. The 2017 annual amount of employer-paid car allowance;
6. The 2017 annual amount of employer-paid pension contribution;
7. The 2017 annual amount of employer-paid contributions to deferred comp plan;
8. The 2017 annual amount of employer-paid contributions to 401-k (or equivalent plan); and
9. The 2017 annual amount of employer-paid post-retirement health plans.

I write to make arrangements for you to view the information you requested. You may view the information at Council 2's office, at 3305 Oakes Avenue in Everett, Tuesday-Thursday between the hours of 10am-4pm. Please contact us to make an appointment at a mutually convenient time. Additionally, I am enclosing a non-disclosure agreement that you will be required to execute prior to viewing the requested information.

Please contact me with any questions or concerns.

Sincerely,


Chris Dugovich
President/Executive Director
AFSCME Council 2

cc: Ron Fredin, Council 2 Vice-President
Kathleen McConnell, Council 2 Secretary-Treasurer

Procedures for a request to review confidential union records

Pursuant to the American Federation of State County and Municipal Employees (AFSCME) Constitution, the AFSCME Bill of Rights for Union Members, the AFSCME Financial Standards Code, Article X, and the Council 2 Constitution; the following procedure will be utilized to provide access to Council 2 documents to the membership while ensuring the privacy of personal information of employees, officers, and members, and the securing and maintaining the confidentiality of the Council.

Who may request documents: Any dues paying member may request to view the documents of Council 2. Non-member employees are not entitled to view or obtain documents of Council 2, including past members who have been removed by judicial procedure.

How to Make a Request:

- **In writing**, a member may request an appointment to view Council 2 documents. The written request must be mailed or delivered to the Council 2 office at:
Address: PO Box 750, Everett WA 98206
Attention: Council 2 Treasurer.
- **By telephone**, a member may request an appointment to view Council 2 documents. The member may call 1-800-775-6418 and speak to the Council 2 Treasurer to schedule an appointment.
- **By email**, a member may request an appointment to view Council 2 documents. The email request must be sent to c2everett@council2.com.

Redaction: Documents that contain the following may not be viewed without redaction:

- Personal Information of an officer, employee, or member
- Bank account and/or routing numbers Direct bill numbers
- Credit Card numbers
- Employee work information including information protected by H.I.P.A.A.

Copying: No use of a copying device (e.g. - camera, cellphone, scanner, video recorder, etc.) will be allowed.

Non-Disclosure Agreement: A dues paying member shall be permitted to review such materials only after executing the Council's Non-Disclosure Agreement.

AFSCME Council 2
NON-DISCLOSURE AGREEMENT

This agreement is entered into this _____ day of _____, 2019 by
_____ and AFSCME Council 2.

In consideration of the mutual promises and covenants contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. In consideration of the disclosure of Proprietary Information by the Disclosing Party, the Receiving Party hereby agrees:
 - a. to hold the Council's information in strict confidence and to take all reasonable precautions to protect such information including, without limitation, all precautions the Receiving Party employs with respect to its own confidential materials,
 - b. not to disclose any such information or any information derived therefrom to any third person who does not hold membership with the Council, and
 - c. not to make any use whatsoever at any time of such information except to evaluate internally its relationship with the Disclosing Party.
2. Disclosure of the Council's information may only occur between a "member in good standing," Council Officers, Chapter Officers, Stewards, and Council Employees, who have a need to know such confidential information in connection with the Council.
3. Use of Confidential Information shall be used by members solely in connection with and benefit to the Council, the membership or for the lawful execution of business.
4. This agreement shall remain in effect in perpetuity.
5. Breach of information shall be disclosed to the Executive Board immediately upon information of such breach. Depending on the nature of the breach and any damage to the Council, the Executive Board will evaluate the need of disciplinary action up to and including Judicial Panel review.
6. This agreement is solely for the purposes of discussing information about the Council, which is required pursuant to the Constitutions of AFSCME and Council 2.

In Witness whereof, the parties hereto have executed this Agreement as of the date first above written.

Receiving Party Name: (Print) _____
Signature: _____ Date: _____

Disclosing Party Name: (Print) _____
Signature: _____ Date: _____