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July 21, 2020

Martin Diggs
13010 Bressler Way
Upper Marlboro, MD 20772

Denise Yorkshire
14440 Old Mill Road
Upper Marlboro, MD 20772

Re: JUDICIAL PANEL CASE NO. 20-11
Diggs et al v. Yorkshire

GREETINGS:

Attached please find Judicial Panel member Timm Twardoski's decision in Judicial Panel Case No. 20-11. The decision is being sent to you via email. Due to the COVID-19 emergency situation, the International Union headquarters offices are closed. Hard copies of the decision will be mailed to all parties when we return to normal business operations.

In Solidarity,

Richard Abelson
Judicial Panel Chairperson

RA:spp

cc: Lee Saunders, President
Elissa McBride, Secretary-Treasurer
James Howell, Regional Director O&FS
Jim Cullen, AFSD
Greg Johnson (charging party)
Arthur Bonsu (charging party)
Mark Williams (charging party)
Kimberly Reid (charging party)

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

JUDICIAL PANEL CASE NO. 20-11
Diggs et al v. Yorkshire

This matter concerns charges filed by Martin Diggs against Denise Yorkshire. The parties to this case are members of Local 2250, ACE-AFSCME support staff at Prince George's County Public Schools in the State of Maryland.

On March 4, 2020, the Judicial Panel assumed original jurisdiction in this matter pursuant to Articles X and XI of the International Constitution.

The case was assigned to Judicial Panel Member Timm Twardoski, after the parties were given an opportunity to strike names from a list of Panel members, pursuant to Article XI, Section 8 of the International Constitution. Following due notice to all interested parties, the trial was scheduled on June 8, 2020 via a Zoom video/audio conference call. All testimony was given under oath, and a complete transcript of the proceedings was made by a professional court reporter.

THE PARTIES

Charging party, Martin Diggs, was present at the hearing and represented himself. Accused party, Denise Yorkshire, was present and was represented by Isaac H. Marks, Sr., Esquire.

EVIDENCE IN SUPPORT OF THE CHARGES

The charging party(s) allege that the accused party violated the following sections of the International Constitution: Article X, Section 2 A, B, D, F, G, and M.

To support the allegations that the accused party violated the above referenced sections, Brother Diggs testified on his own behalf. In his testimony, Brother Diggs called Tony Mejias as a witness to testify regarding union dues being increased without the knowledge of Local members. Brother Diggs alleged that Sister Yorkshire unilaterally and solely increased the Local dues. Brother Mejias testified that members were notified of the dues increase at a Local membership meeting in February of 2020. (TR-24) However in the December 2019 membership meeting at Largo High School, the only issue that was voted on was the negotiated wage increases. (TR-27)

Brother Diggs then called on Princella Rather to testify as a witness regarding the dues increase. Sister Rather testified that she attended a membership meeting in November 2019 and the topic of dues being increased was brought up but never acted or voted on. (TR-28) Sister Rather testified that in a general membership meeting in December 2019, the topic of a dues increase was brought up again. The discussion involved the possibility of the dues being increased and split between MSEA and AFSCME, where \$0.50 would be going to the Local. Sister Rather testified that it was her understanding that the Board was in discussion about the matter and it was left as a "just maybe". (TR31)

Brother Diggs requested that the meeting notice of December 10, 2019 be entered into evidence. (CP -1) Brother Diggs testified that the vote that was taken at the meeting was for the possibility of an AFSCME dues increase and not a Local dues increase. (TR-37) Brother Diggs further testified that in a November 2019 Board meeting, the Local dues

increase was agreed to by the Board but was never voted on by the membership at the December 10, 2020 general meeting. (TR-39)

Brother Diggs requested the "Negotiated Agreement" notification for members be entered into evidence. (CP-2) Brother Diggs contended that only using e-mail as opposed to the mail system for providing notice would change the outcome of the ratification. (TR-51)

Brother Diggs testified the Local was not notified of the accused party having received a \$500 stipend for taking on part of the Executive Director duties. (TR-52) Brother Diggs testified that he requested this information and justification for other events that the accused party had attended. Brother Diggs testified that he never received a response. (TR-53) Brother Diggs went on to testify that the accused party had not accounted for or requested approval for credit card charges. (TR-54) Brother Diggs had requested bank and credit card statements that were provided prior to the hearing but he claimed to have never received them. During the hearing, Judicial Panel Assistant Shaun Plum provided an email which showed Brother Diggs as a recipient of the email containing these documents. (TR-122)

Brother Diggs also requested that the "Bus Task Force Committee" list be entered into evidence. (CP-3) Brother Diggs testified that Sister Yorkshire had the authority to add or remove members on the committee and Sister Yorkshire placed an expelled member on the committee. (TR-56) Brother Diggs testified that a non-member could not support or speak for the union per the Local Constitution. (TR-57)

Brother Diggs requested for his letter of suspension and statement from Kimberly Reid to be entered into evidence. (CP-4) Brother Diggs called Sister Reid as a witness to testify on the Loudermill hearing. Sister Reid, Field Representative Jesse Bennet, and Board member Essence Herdon attended the Loudermill hearing. Sister Reid testified that Mr. Bennett was asked by Brother Diggs if there were others involved in the hearing. Mr. Bennett responded that they probably knew who it was, and Brother Diggs alleged that Mr. Reed was referring to Sister Yorkshire. Brother Diggs was arguing that Sister Yorkshire colluded with management and attempted to change his suspension into a termination. (TR-62)

Brother Diggs testified that the accused party willfully violated Article X Section 2 (G) by overruling a grievance pertaining to step increases. No exhibits were provided to support this accusation. (TR-94)

Brother Diggs made a request for the ACE-AFSCME Profit and Loss Statement from January 2016 to December 2019 be entered into evidence. (AP-3) For this exhibit, Brother Diggs alleged that the accused party knowingly submitted false per capita and other financial and audit reports. (TR-96) Brother Diggs testified that the report should have provided more detailed information about the President's expenses and was concerned that there was a section of the report that appeared to be whited out or deleted. (TR-100)

EVIDENCE IN REFUTATION OF THE CHARGES

To refute the charges against her, Isaac Marks, Sr., LLC represented Denise Yorkshire. Mr. Marks called Executive Board Member Denise Yorkshire as their first witness. Sister Yorkshire testified that she was not required to submit receipts to the Board and only submitted them to the Local's accountant. (TR-160) Sister Yorkshire testified that there had been several requests for receipts and financial records and the accused party had several opportunities to request the information from the accountant as he attended many of the membership meetings. (TR-161) Sister Yorkshire testified that the accountant had offered for anyone to come in and review the financial information for the Local. (TR-161) Sister Yorkshire testified that it was not a common practice for her to report back to the Board after each trip and give notification when she had plans to travel. (TR-161)

Sister Yorkshire testified that she was aware of the existence of Executive Board stipends, which was a practice that went back to 2018, and prior Presidents taking on the same duties had received the same stipends. (TR-163) Sister Yorkshire testified that the Board has never required prior Board approval for her travel or expenses incurred during the trips, and never had requested the same information from prior presidents. (TR-175)

Mr. Marks entered the Executive Board meeting minutes, dated September 17, 2019, as evidence of the Board's involvement of the hiring of a new Executive Director, approval of travel, and approval of Executive Director stipend. Included in the exhibit was a record of the Board's vote approving Sister Yorkshire's stipend. (AP-1)

With regards to the dues increase, Sister Yorkshire testified that the notice (CP-1) was sent to members via "pony mail" which is a system to get mail from building to building, fax, and email. This afforded members several opportunities to have knowledge of the upcoming vote on the dues increase. (TR-189)

Sister Yorkshire testified that she had never been required to provide receipts to the Board. Sister Yorkshire testified that she regularly submitted all receipts to the accountant directly. (TR-216) Sister Yorkshire testified that if the charging party wanted the receipts and financial information, they could have sent a written request to the accountant directly. Sister Yorkshire testified that she does not prepare the financial statements herself. (TR-218)

With regards to Brother Digg's letter of suspension (AP-4), Sister Yorkshire testified that she had never attended the Loudermill hearing. (TR-218)

Regarding the appointment of expelled member Dixon to the Bus Task Force, Sister Yorkshire testified that she did not and could not appoint members to the task force. She only had the authority to provide a recommendation, and CEO Dr. Goldson has the authority to appoint members.

Mr. Marks called Executive Board Member Joseph Jackson as a witness who testified that as a Board Member under three prior Presidents, they all had received stipends where the amounts differed. (TR-248)

Brother Jackson testified that there was no need for the Board to approve the amount as the stipend amount was already included in the budget which was previously approved by the Board. (TR-248)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The undersigned will address each charge separately:

Charge 1

Article X, Section 2 (A): Violation of any provision of this Constitution or of any officially adopted and approved constitution of a subordinate body to which the member being accused is subject.

The issue at hand was whether the Local approved the AFSCME and/or Local dues increase. Regardless of what increase was addressed, Sister Yorkshire failed to secure membership approval for the dues increase. Further, she failed to provide the necessary notification of the dues increase as required in the Local 2250 Constitution or the International Constitution. Discussion is not the same as a vote. The record in the present case shows that the Executive Board had voted to recommend the dues increase, and the potential increase was only discussed over the course of two subsequent membership meetings. Dues increases are constitutional amendments, and constitutional amendments must be introduced at a meeting or through notification to the membership and read and voted upon at a subsequent meeting or through a mail ballot. Although it appears that notice was given to the members which clearly stated that they would be voting on a dues increase, there is absolutely no evidence that a vote was taken.

It is also noted that any issues regarding the fees paid to the MSEA are irrelevant to the issue of a dues increase and are only raised to confuse the issue. AFSCME is the certified representative, and Local 2250 is a subordinate body which is fully and completely governed by the International Constitution.

The imposition of an illegal dues increase is a very serious violation of the members' fundamental rights. As president, Sister Yorkshire is the responsible party to make certain the Local 2250 and AFSCME Constitutions are adhered to in full. Although the executive board contributed through their passive or unwilling cooperation, it does not absolve President Yorkshire of responsibility. Sister Yorkshire is found guilty of violating Article XII of the Local 2250 Constitution and Article X, Section 2(A) of the International Constitution.

With regards to the hiring of the Executive Director, this must be done in conjunction with the Board. This was already completed with the hiring of a new Executive Director starting the end of June 2020.

Charge 2

Article X, Section 2, (B): Misappropriation, embezzlement, or improper or illegal use of union funds. Any action by any officer or employee of any council which results in the expenditure by said council of money which is the property of any other subordinate body or of the International Union without proper authorization from the body which is the owner of such funds.

Sister Yorkshire was well within her obligation of notifying the Board of upcoming trips and events. Sister Yorkshire properly reported her expenses to the accountant. Sister Yorkshire submitted receipts for trips and events to the accountant and was in no way responsible for the preparation of any financial reports. Brother Diggs requested and received bank and credit card statements prior to the hearing. While Brother Diggs alleged that he did not receive the documents, Judicial Panel emails clearly showed that

he was included in the email list. The release of the documents was approved by Judicial Panel Chair, Richard Abelson, in the pre-trial conference call.

Sister Yorkshire's stipend was also within the Board's approved budget, was a longstanding practice of the local, and is a routine and repetitive expenditure. Sister Yorkshire had the ability to set the stipend as long as it was in the approved budget. As a note, Sister Yorkshire made the recommendation to reduce the stipend in order to decrease the Local's expenses. This charge is dismissed.

Charge 3

Article X Section 2, (D): Acting in collusion with management to the detriment of the welfare of the union or its membership.

There was no evidence or testimony that Sister Yorkshire had any involvement in the discipline of Brother Diggs. The purpose of a "Loudermill hearing" is to provide an employee the opportunity to present their side of the story before the employer makes a decision on discipline. The Loudermill responsibilities are assigned to the Field Representatives and/or the shop stewards. Sister Yorkshire did not attend the Brother Diggs hearing. This charge is dismissed

Charge 4

Article X, section 2, (F): Refusal or deliberate failure to carry out legally authorized decisions of the International Convention, the International President, the International Executive Board, the Judicial Panel, or of the convention or executive board of a subordinate body of which the accused is a part.

Sister Yorkshire was well within her obligation of notifying the Board of upcoming trips and events. Sister Yorkshire properly reported her expenses to the

accountant. Sister Yorkshire submitted receipts for trips and events to the accountant directly. This charge is dismissed.

Charges 5 and 6

Article X Section 2, (G and M) were withdrawn by the charging party.

DECISION

Sister Denise Yorkshire is found guilty of violating Article XII of the Local 2250 Constitution and Article X, Section 2(A) of the International Constitution by raising the monthly dues without proper authority. This is a very serious offense that strikes at the heart of trade union democracy. The penalty imposed is removal from office of president, and a suspension of the right to hold or seek any elected position at any level of the union for a period of three years. All other charges are dismissed.

July 21, 2020
Helena, Montana

Timm Twardoski
Judicial Panel Member
AFSCME, AFL-CIO