

2014 IL App (1st) 133634-U

No. 1-13-3634

December 16, 2014

SECOND DIVISION

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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JOSEPH S. McGREAL,	)	Petition for Review of an Order of the
	)	Illinois Labor Relations, State Panel
Petitioner-Appellant,	)	
	)	No. S-CA-10-167
v.	)	
	)	
ILLINOIS LABOR RELATIONS BOARD	)	
STATE PANEL, VILLAGE OF ORLAND	)	
PARK, ILLINOIS, METROPOLITAN	)	
ALLIANCE OF POLICE and DENNIS V.	)	
STOIA,	)	
	)	
Respondents-Appellees.	)	

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JUSTICE NEVILLE delivered the judgment of the court.  
Presiding Justice Simon and Justice Pierce concurred in the judgment.

**ORDER**

¶ 1       *Held:* The parties' waiver of their objections to the arbitrator conferred on the arbitrator the power to preside over the arbitration of the grievance.

¶ 2 The Metropolitan Alliance of Police, Orland Park Police Chapter No. 159 (MAP), filed an unfair labor practice charge against the Village of Orland Park (Village) concerning the Village's treatment of Officer Joseph McGreal. The Illinois Labor Relations Board (Board) dismissed the charge in accord with an arbitrator's recommendation. McGreal, in this appeal, challenges only the arbitrator's jurisdiction to hear the unfair labor practice charge. We agree with the Board that the parties waived any objection to the arbitrator. Therefore, we affirm the Board's decision.

¶ 3 BACKGROUND

¶ 4 On December 24, 2009, MAP filed with the Board a charge that the Village disciplined McGreal because of his union activities. The Village terminated McGreal's employment in June 2010, and MAP amended its unfair labor practice charge to contest the firing.

¶ 5 On July 22, 2010, the Board's executive director deferred further proceedings on the charge pending arbitration, in accord with the grievance procedure established in the collective bargaining agreement between MAP and the Village. In the written order, the executive director said,

"Within 15 days after the termination of the contractual procedure, Charging Party may request that the Board reopen the case for the purpose of resolving any substantial issues left unresolved by the grievance procedure or proceed with the charge on the basis that the award is contrary to the policies underlying the Act. If Charging Party fails to make such a request within the time specified, the Board may dismiss this charge upon request of Respondent or on its own motion."

¶ 6 The collective bargaining agreement between MAP and the Village provided that if MAP and the Village sought to arbitrate a grievance,

"The Parties shall attempt to agree upon an arbitrator within five (5) business days after receipt of the notice of referral. In the event the parties are unable to agree upon the arbitrator within the five (5) day period, the parties shall jointly request the Federal Mediation and Conciliation Service to submit a panel of five (5) arbitrators who shall be members of the National Academy of Arbitrators residing in the Midwest region. \*\*\* The party requesting arbitration shall strike the first name, [and] the parties shall then strike alternately until only on[e] person remains. The person remaining shall be the arbitrator."

¶ 7 MAP and the Village did not agree on an arbitrator. The Federal Mediation and Conciliation Service submitted a list of seven potential arbitrators to MAP and the Village. The parties took turns striking names from the list until only one name, Dennis Stoia, remained. Stoia began the arbitration hearing on January 26, 2011. The parties met with Stoia on 17 days over the following 14 months.

¶ 8 After a year of arbitration proceedings before Stoia, in January 2012, McGreal objected to Stoia's jurisdiction on grounds that Stoia did not belong to the National Academy of Arbitrators. Stoia addressed the objection at the hearing held on February 9, 2012. Stoia pointed out that he never said to the Federal Mediation and Conciliation Service or the parties that he belonged to the National Academy of Arbitrators. MAP's attorney said, "The Union has asked me to proceed forward with the arbitration." The Village also did not object to Stoia continuing to preside over the arbitration of the grievance.

¶ 9 Stoia issued his decision denying MAP's grievance on November 14, 2012. Neither the Village, nor MAP, nor McGreal filed any timely challenge to the decision. On July 18, 2013, the Board's executive director dismissed the charge because no one sought to reopen the matter within the time specified in the order deferring the matter to arbitration.

¶ 10 McGreal, but not MAP, appealed to the Board for review of the executive director's decision. On October 23, 2013, the Board issued a written order affirming dismissal of the charges because "no one, Charging Party, Respondent or McGreal, filed a request to proceed with the charge within the allotted 15-day time period." McGreal now appeals, naming the Village, the Board, Stoia and MAP as appellees.

¶ 11 ANALYSIS

¶ 12 Supreme Court Rule 335 gives this court jurisdiction to consider this appeal from the Board's decision. Ill. Sup. Ct. R. 335 (eff. Feb. 1, 1994) In this appeal, McGreal challenges only Stoia's jurisdiction to preside over the arbitration. McGreal contends that the arbitration proceedings violated the collective bargaining agreement's provision that if the parties could not agree on an arbitrator, they must request from the Federal Mediation and Conciliation Service a list of five potential arbitrators "who shall be members of the National Academy of Arbitrators."

¶ 13 McGreal compares this case to cases in which a statute limited the jurisdiction of a decision maker. See *Jones v. Industrial Comm'n*, 335 Ill. App. 3d 340 (2002); *City of Marseilles v. Radke*, 287 Ill. App. 3d 757 (1997) (we note that *Radke* appears to conflict with *Belleville Toyota, Inc. v. Toyota Motor Sales, USA, Inc.*, 199 Ill. 2d 325, 335-37 (2002)).

However, neither *Jones* nor *Radke* applies here, because here the parties agreed by contract to arbitrate certain grievances, and no statute limits the arbitrator's power.

¶ 14 In general, "[a] contractual right with respect to arbitration can be waived as can any other contract right." *Ure v. Wangler Construction Co.*, 232 Ill. App. 3d 492, 498 (1992). Courts must treat contracts to arbitrate like any other contracts (*Yates v. Doctor's Associates, Inc.*, 193 Ill. App. 3d 431, 438 (1990)), and parties may waive their contractual rights. *Northeast Illinois Regional Commuter R.R. Corp. v. Chicago Union Station Co.*, 358 Ill. App. 3d 985, 996 (2005).

¶ 15 When McGreal pointed out that Stoia did not belong to the National Academy of Arbitrators, MAP and the Village waived their rights under the contract to insist on an arbitrator who was a member of the National Academy of Arbitrators. The parties' waiver of their objections to Stoia acting as arbitrator conferred on Stoia the power to preside over the arbitration of the grievance. See *Village of Posen v. Illinois Fraternal Order of Police Labor Council*, 2014 IL App (1st) 133329, ¶ 32; *West Towns Bus Co. v. Division 241 Amalgamated Ass'n of Street Electrical Ry. & Motor Coach Employees*, 26 Ill. App. 2d 398, 410 (1960). Stoia concluded the arbitration of the grievance with his decision dated November 14, 2012. The parties' failure to timely object to that decision justified the Board's decision to dismiss the charge. Accordingly, we affirm the decision of the Board.

¶ 16 CONCLUSION

¶ 17 McGreal objected to Stoia because Stoia did not belong to the National Academy of Arbitrators, but MAP and the Village waived the objection. Stoia completed the arbitration proceedings with the consent of the parties to the contract. Because no one filed a timely

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challenge to Stoia's recommendations, the Board properly dismissed the unfair labor practice charge. Accordingly, we affirm the Board's decision.

¶ 18 Affirmed.