

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

Jonnie Bankston,)	
)	
Charging Party,)	
)	
and)	Case No. S-CB-21-006
)	
American Federation of State, County, and)	
Municipal Employees, Council 31,)	
)	
Respondent.)	

**DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

On February 1, 2021, Executive Director Kimberly Stevens dismissed a charge filed by Charging Party Jonnie Bankston on November 13, 2020. The charge alleged Respondent American Federation of State, County, and Municipal Employees, Council 31 (Union), engaged in unfair labor practices within the meaning of Section 10(b) of the Illinois Public Labor Relations Act (Act), 5 ILCS 315/1 et seq., when it failed to follow COVID-19 mitigation mandates from the Governor of Illinois and the Center for Disease Control (CDC). The Executive Director dismissed the charge, observing that the Board lacks jurisdiction over Charging Party’s claims which do not concern any matters falling within the Act’s provisions. She also noted that Charging Party is not a public employee as defined by the Act. Rather, Charging Party is an inmate in a State correctional center, who filed the instant charge to complain of living conditions due to the failure to follow State and federal COVID-19 related guidelines at the State facility where he resides.

Charging Party timely appealed the Executive Director’s dismissal. The Union did not file a response.

Charging Party contends in his appeal that as an inmate of a State correctional center, he is a third-party beneficiary of “all contracts” involving the Illinois Department of Corrections (IDOC), including the collective bargaining agreement between IDOC and the Union. As such, Charging Party claims he is “entitled to be heard by the Illinois Labor Relations Board” because he is in the custody of IDOC, citing 730 ILCS 5/3-2-2(1)(c).

Upon review of the dismissal, the record, and the appeal, we find Charging Party’s appeal to lack merit. Even under Charging Party’s third-party beneficiary theory, the Act’s provisions neither provide any recourse for his claims nor provide us jurisdiction to hear them. Moreover, the legal authority Charging Party cites, 730 ILCS 5/3-2-2(1)(c), has no bearing on our jurisdiction to hear such claims as that section gives IDOC the authority to maintain and establish new facilities and to entertain bids for such purposes through the State’s procurement process. In sum, Charging Party fails to identify any error in the Executive Director’s findings of fact, analysis, or conclusions. Accordingly, the Executive Director correctly dismissed the charge.

For the above reasons, we affirm the dismissal for the reasons stated by the Executive Director.

BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

/s/ William E. Lowry
William E. Lowry, Chairman

/s/ John S. Cronin
John S. Cronin, Member

/s/ Kendra Cunningham
Kendra Cunningham, Member

/s/ Jose L. Gudino
Jose L. Gudino, Member

/s/ J. Thomas Willis
J. Thomas Willis, Member

Decision made at the State Panel's public meeting in Chicago and Springfield, Illinois, via WebEx videoconference on June 10, 2021, written decision approved at the State Panel's public meeting in Chicago and Springfield, Illinois via WebEx videoconference on July 15, 2021, and issued on July 22, 2021.

This Decision and Order is a final order of the Illinois Labor Relations Board. Aggrieved parties may seek judicial review of this Decision and Order in accordance with the provisions of Section 11(e) of the Act and the Administrative Review Law. Petitions for review of this Decision and Order must be filed within 35 days from the date the Decision and Order is served upon the party affected by the decision. 5 ILCS 315/11(e) (2018).

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ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

Jonnie Bankston,

Charging Party

and

Case No. S-CB-21-006

American Federation of State, County, and
Municipal Employees, Council 31,

Respondent

DISMISSAL

On November 13, 2020, Jonnie Bankston (Charging Party) filed charges in Case No. S-CB-21-006 with the State Panel of the Illinois Labor Relations Board (Board), alleging that the American Federation of State, County, and Municipal Employees, Council 31, (Respondent) engaged in unfair labor practices within the meaning of the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2014), *as amended*. After an investigation conducted in accordance with Section 11 of the Act, I determined that the charge fails to raise an issue of law or fact sufficient to warrant a hearing. I hereby dismiss these charges for the following reason.

I. INVESTIGATION

Respondent is a labor organization within the meaning of Section 3(i) of the Act. Charging Party is an inmate at the Lawrence Correctional Center. Moreover, Charging Party is not a public employee within the meaning of Section 3(n) of the Act as he is not employed by a public employer and he is not a member of a bargaining unit (Unit) currently represented by Respondent.¹

¹(5 ILCS 315/2.5) Sec. 2.5. (n) "Public employee" or "employee", for the purposes of this Act, means any individual employed by a public employer.

Charging Party alleges that Respondent violated the Act when it failed to follow mandates from the Governor of Illinois (Governor) and the Center for Disease Control (CDC) regarding the COVID-19 pandemic. Specifically, Charging Party alleges that Respondent failed to properly quarantine inmates following exposure to COVID-19, refused to utilize personal protective equipment (PPE), and failed to provide sanitizer and disinfectant to inmates. Charging Party alleges that Respondent is conspiring against constitutional rights of inmates and intentionally endangering them.

II. DISCUSSION AND ANALYSIS

Charging Party is not an employee of a public employer under the Act, nor is he a public employee under the Act. As such, the Board does not have jurisdiction over this charge. Second, Charging Party alleges that Respondent refused to implement policies and procedures intended to mitigate the spread and impact of COVID-19. Charging Party's complaint concerns matters related to public health and safety, adherence to statewide mandates, and living conditions in a State correctional facility. The Board does not have jurisdiction over laws or regulations other than the Act; therefore, the Board cannot act on claims of alleged mandate violations and living conditions in a State correctional facility. Moreover, there is no evidence that Respondent, as a labor organization, exerts control over implementation of guidelines and policies related to COVID-19 mitigation in a State correctional facility.

As such, this charge fails to raise an issue for hearing and is dismissed.

III. ORDER

Accordingly, this charge is hereby dismissed. The Charging Party may appeal this dismissal to the Board any time within 10 calendar days of service of this dismissal. Such appeal must be in writing, contain the case caption and numbers and must be addressed to the General Counsel of

the Illinois Labor Relations Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois, 60601-3103 or filed electronically at ILRB.Filing@Illinois.gov in accordance with Section 1200.5 of the Board's Rules and Regulations, 80 Ill. Admin. Code §§1200-1300. The appeal must contain detailed reasons in support thereof, and the Charging Party must provide it to all other persons or organizations involved in this case at the same time it is served on the Board. Please note that the Board's Rules and Regulations do not allow electronic service of the other persons or organizations involved in this case. The appeal sent to the Board must contain a statement listing the other parties to the case and verifying that the appeal has been provided to them. The appeal will not be considered without this statement. If no appeal is received within the time specified, this dismissal will be final.

Issued at Springfield, Illinois, this 1st day of February, 2021.

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**



**Kimberly F. Stevens
Executive Director**