

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



JEANETTE G. GILLIGAN,)
) Case No. SF-CE-1415
Charging Party,)
) Request for Reconsideration
v.) PERB Decision No. 913
)
MONTEREY COUNTY OFFICE OF EDUCATION,) PERB Decision No. 913a
)
Respondent.) February 27, 1992
_____)

Appearance: Jeanette G. Gilligan, on her own behalf.

Before Hesse, Chairperson; Shank and Carlyle, Members.

DECISION

CARLYLE, Member: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration filed by Jeanette G. Gilligan (Gilligan) of the Board's decision in Monterey County Office of Education (1991) PERB Decision No. 913. In that decision, the Board affirmed the administrative law judge's (ALJ) dismissal of her unfair practice charge on the grounds that Gilligan failed to state a prima facie case of discrimination or reprisal for her protected activities. For the reasons expressed below, the Board denies Gilligan's request for reconsideration.

DISCUSSION

PERB Regulation 32410(a)¹ states, in pertinent part:

Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision within 20 days following the date of service

¹PERB Regulations are codified at California Code of Regulations, title 8, section 310001 et seq.

of the decision. . . . The grounds for requesting reconsideration are limited to claims that the decision of the Board itself contains prejudicial errors of fact, or newly discovered evidence or law which was not previously available and could not have been discovered with the exercise of reasonable diligence.

In her request for reconsideration, Gilligan contends, as she did on her appeal of the ALJ's dismissal, that the Monterey County Office of Education's (MCOE) action in dismissing her was motivated by her performance of protected activities. Reconsideration is not appropriate when a party restates an argument which was considered and rejected by the Board in its underlying decision. (Los Angeles Community College District (1992) PERB Decision No. 908a; Tustin Unified School District (1987) PERB Decision No. 626a.) Here, Gilligan's arguments merely restate arguments made in her previous appeal. These arguments were properly rejected by the Board in its underlying decision.

Additionally, Gilligan's submission of a letter from a California School Employees Association representative to MCOE's attorneys concerning a request to remove all derogatory remarks from Gilligan's personnel records fails to demonstrate that the Board's decision contained prejudicial errors of fact. Finally, Gilligan has failed to show that her request for reconsideration² is based on newly discovered evidence or law which was not

²Gilligan submitted an addendum to her request for reconsideration. This addendum was filed outside the statutory time period. Nevertheless, the materials submitted would not change the Board's initial determination as it fails to meet the requirements of PERB Regulation 32410(a).

previously available and could not have been discovered with the exercise of reasonable diligence. Accordingly, Gilligan has failed to demonstrate extraordinary circumstances warranting reconsideration.

ORDER

There being no proper grounds for reconsideration stated, the request for reconsideration of PERB Decision No. 913 is hereby DENIED.

Chairperson Hesse and Member Shank joined in this Decision.