STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

LOLLETT JONES-BOYCE, Charging Party, v. METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, Respondent.	Case No. LA-CE-419-M Request for Reconsideration PERB Decision No. 2066-M PERB Decision No. 2066a-M December 30, 2009

Appearance: Lollett Jones-Boyce, on her own behalf.

Before Dowdin Calvillo, Acting Chair; McKeag and Neuwald, Members.

DECISION

DOWDIN CALVILLO, Acting Chair: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration by Lollett Jones-Boyce (Jones-Boyce) of the Board's decision in *Metropolitan Water District of Southern California* (2009) PERB Decision No. 2066-M. In that decision, the Board affirmed a Board agent's dismissal of Jones-Boyce's unfair practice charge for failure to state a prima facie case that the Metropolitan Water District of Southern California (District) retaliated against her for engaging in activity protected by the Meyers-Milias-Brown Act (MMBA).[1]

The Board has reviewed the request for reconsideration and supporting documentation in light of the relevant law. Based on this review, the Board denies Jones-Boyce's request for reconsideration for the reasons discussed below.

[1] The MMBA is codified at Government Code section 3500 et seq.

DISCUSSION

Requests for reconsideration of a final Board decision are governed by PERB Regulation 32410(a),[2] which states in full:

> 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 of the decision. An original and five copies of the request for reconsideration shall be filed with the Board itself in the headquarters office and shall state with specificity the grounds claimed and, where applicable, shall specify the page of the record relied on. Service and proof of service of the request pursuant to Section 32140 are required. The grounds for requesting reconsideration are limited to claims that: (1) the decision of the Board itself contains prejudicial errors of fact, or (2) the party has newly discovered evidence which was not previously available and could not have been discovered with the exercise of reasonable diligence. A request for reconsideration based upon the discovery of new evidence must be supported by a declaration under the penalty of perjury which establishes that the evidence: (1) was not previously available; (2) could not have been discovered prior to the hearing with the exercise of reasonable diligence; (3) was submitted within a reasonable time of its discovery; (4) is relevant to the issues sought to be reconsidered; and (5) impacts or alters the decision of the previously decided case.

Because reconsideration may only be granted under "extraordinary circumstances," the Board applies the regulation's criteria strictly in reviewing requests for reconsideration. (*Regents of the University of California* (2000) PERB Decision No. 1354a-H.)

For the most part, Jones-Boyce's request for reconsideration attempts to re-argue her case by supplying additional factual detail for allegations made in the unfair practice charge. Reiterating arguments made on appeal does not satisfy PERB Regulation 32410(a). (*San Leandro Unified School District* (2007) PERB Decision No. 1924a.) Nor does Jones-Boyce provide the required sworn declaration regarding the newly presented facts.

[2] PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

Jones-Boyce also contends that the Board's decision contains three prejudicial errors of fact: (1) she was represented by the American Federation of State, County and Municipal Employees, Local 1902 (AFSCME), at all meetings with her supervisor Bobbi Becker (Becker) from October 2006 through February 2007; (2) AFSCME representative Carlos Castrillo (Castrillo) offered to file a grievance on her behalf sometime after February 21, 2007; and (3) the Board found no good cause to consider an addendum to her charge filed after the appeal period ended. Jones-Boyce claims that AFSCME only represented her at some of the meetings with Becker; Castrillo was used by the District to harass her; and the addendum material was filed to show that her attorney was coercing her into settling her workers' compensation claim.

As to the first two alleged errors, they are insufficient to warrant reconsideration because the Board's decision did not turn on the presumed truth of those allegations. (*State Center Community College District* (2002) PERB Decision No. 1471a; *Los Angeles County Education Association, CTA/NEA (Burton)* (2000) PERB Decision No. 1358a.) Regarding the third alleged error, the Board made no factual findings in determining Jones-Boyce failed to show good cause for the Board to consider her late-filed addendum. Rather, it made a legal ruling based on PERB precedent and the undisputed facts that her addendum was filed after the period for filing appeal documents ended and no reason for the late filing was provided. Purported errors of law are not grounds for reconsideration. (*California State Employees Association (Hard, et al.)* (2002) PERB Decision No. 1479a-S.)

For the above reasons, Jones-Boyce's request for reconsideration must be denied because it fails to establish either of the grounds for reconsideration set forth in PERB Regulation 32410(a).

ORDER

Jones-Boyce's request for reconsideration of the Board's decision in *Metropolitan Water District of Southern California* (2009) PERB Decision No. 2066-M is hereby DENIED.

Members McKeag and Neuwald joined in this Decision.