

JUNEAU COUNTY HIGHWAY AND
PUBLIC WORKS COMMITTEE,

Plaintiff,

vs.

AFSCME LOCAL 569 ON
BEHALF OF JEFFREY S. SHAW,

Defendant.

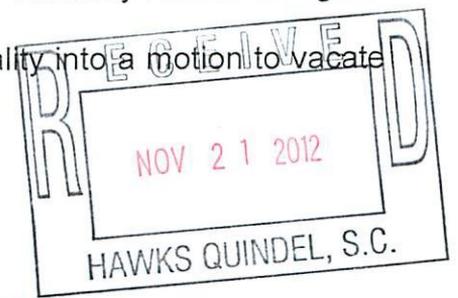
MEMORANDUM DECISION

Case No. 12-CV-95

This case comes before the Court on the motion of the Juneau County Highway and Public Works Committee pursuant to Wis. Stats. §§ 788.10 and 788.13 for an order vacating the Arbitration Award entered by the Arbitrator on March 1, 2012, in *In the Matter of the Arbitration of a Dispute Between AFSCME Local 569, AFL-CIO and Juneau County*, Case No. 158, No. 70686, MA-15025. Juneau County appears by Attorney David Lasker, Juneau County Corporation Counsel. AFSCME Local 569 appears by Attorney Aaron N. Halstead.

The Court set an initial briefing schedule whereupon the County filed a reply brief that raised the question of whether or not the Court should consider evident partiality under § 788.10(1)(b) or § 788.10(1)(d).

The Court heard oral argument on October 11, 2012, in which the Court concluded that it would not consider any of the County's arguments for relief advanced under Wis. Stat. § 788.10(1)(b). The parties further submitted briefs addressing whether the County could still argue that the arbitrator exceeded his authority by showing evident partiality under Wis. Stats. § 788.10(1)(d). Attorney Halstead argues that this is an effort to boot strap the charge of alleged partiality into a motion to vacate



under Wis. Stats. § 788.10(1) (d). The Court agrees and grants the motion to strike brought by AFSCME Local 569.

The party seeking to challenge an Arbitrator's Award for exhibiting evident partiality may do so under Wis. Stats. § 788.10(1) (d) only if it can establish that a reasonable person, knowing previously undisclosed information, would have such doubts about the Arbitrator's impartiality that person would have taken action on the information. *DeBaker v. Shah*, 194 Wis. 2d 104, 533 N.W.2d 464 (1995); *Spooner District v. N.W. Educators*, 136 Wis. 2d 263, 401 N.W.2d 578 (1987). The record fails to implicate any of the criteria relevant to a motion filed under Wis. Stats. § 788.10 (1) (d).

The Court finds that the County's arguments directed to the Arbitrator's alleged partiality do not constitute a recognized basis for challenging an Arbitrator's Award for exceeding his authority under Wis. Stats. § 788.10 (1) (d).

The parties to this case contracted to settle their dispute by arbitration. The Court acts purely in a supervisory nature, with the Court's duty being solely to insure that the parties receive the arbitration for which they bargain. An Arbitrator's Award is subject to limited judicial review, is considered presumptively valid, and should not be vacated merely because of alleged errors of law or fact or because one of the parties disagreed with the results. The Court denies the motion to vacate.

The function of a Court on review is not to "find the facts." The Court's role in reviewing an Arbitrator's Award is not to determine which witness to believe, which inferences of fact to accept or reject, or which version of the historical events to credit as "correct" or "accurate." The Court works with the facts as found by the Arbitrator –

even if claimed to be erroneous or against the weight of evidence – in deciding whether a movant has shown cause for vacating the award based on those facts.

The County's assertions fail to establish a perverse misconstruction or positive misconduct by the arbitrator in rendering his award, however, and provide no grounds on which to conclude that he disregarded the law or violated public policy in fashioning the award. Because an Arbitrator's Award is presumptively valid, this Court is not empowered to overturn the award unless there is clear and convincing evidence *that the* Arbitrator's actions violated one of the limited grounds found in Chapter 788. See *City of Madison v. AFSCME*, 124 Wis. 2d 298, 302, 369 N.W.2d 759 (Ct. App. 1985). The Court denies the County's motion to vacate the Arbitrator's Award in this case.

Dated this 20th day of November 2012.

BY THE COURT:



Patrick J. Taggart, Circuit Judge

C: Atty. David Lasker, 220 E Lacrosse Street, Mauston, WI 53948
Atty. Aaron Halstead, P.O. Box 2155, Madison, WI 53701-2155