

STATE OF MICHIGAN  
COURT OF APPEALS

---

AMERICAN FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES,

UNPUBLISHED  
October 14, 1997

Plaintiff-Appellant,

v

No. 189836

MERC

DEPARTMENT OF MENTAL HEALTH,

LC No. C94 A-11

Defendant-Appellee,

and

CENTRAL STATES COMMUNITY SERVICES,

Defendant-Appellee.

---

Before: Gribbs, P.J., and Sawyer and Young, JJ

MEMORANDUM.

Plaintiff appeals the opinion and order of the Michigan Employment Relations Commission (MERC) which adopted but modified in part a recommended order of the administrative law judge finding defendant Central States Community Services (CSCS) liable for certain unfair labor practices. We find this matter is controlled by this Court's decision in *AFSCME v Dep't of Mental Health*, 215 Mich App 1; 545 NW2d 363 (1996)<sup>1</sup>, and vacate the MERC decision. Just as in *AFSCME v Dep't of Mental Health*, the labor activity in the present case is also at least "arguably" subject to the provisions of the NLRB. In light of the recent changes in the federal standard and this Court's response to those changes, we vacate the MERC decisions in this case on the grounds of preemption. In light of our decision, we need not reach the issues raised by plaintiff.

Vacated.

/s/ Roman S. Gibbs

/s/ David H. Sawyer

/s/ Robert P. Young, Jr.

<sup>1</sup> Although plaintiff contends that the proceedings, *id.*, were stayed by this Court and cannot be relied upon in this matter, the stay was lifted by this Court's order September 8, 1997.