

**[J-61-2013] [MO: Todd, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

LANCASTER COUNTY,	:	No. 36 MAP 2013
	:	
Appellee	:	Appeal from the Order of the
	:	Commonwealth Court entered January 11,
	:	2012 at No. 644 CD 2011 which Reversed
v.	:	the Order of PA Labor Relations Board
	:	dated March 15, 2011 at No.
	:	PERA-U-09-465-E .
PENNSYLVANIA LABOR RELATIONS	:	
BOARD,	:	ARGUED: September 11, 2013
	:	
Appellant	:	
	:	
AMERICAN FEDERATION OF STATE,	:	
COUNTY AND MUNICIPAL	:	
EMPLOYEES, DISTRICT COUNCIL 89,	:	
AFL-CIO,	:	
	:	
Intervenor	:	

DISSENTING OPINION

MR. JUSTICE EAKIN

DECIDED: June 16, 2014

I respectfully dissent, as I find maintenance mechanics do not qualify as prison guards. As the majority points out, the term “guards at prisons” is not defined under any section of the Public Employee Relations Act, 43 P.S. §§ 1101.101 et seq., and, as a clear and unambiguous term, it must be construed according to its “common and approved usage[.]” See 1 Pa.C.S. § 1903(a); see also id., § 1921(b). I agree with the majority’s determination that, by using the plain language “guards at prisons,” the legislature intended a meaning more expansive than traditional notions of uniformed correctional officers, but I respectfully would find the term less expansive than the majority suggests. The term “guard” is not so broad as to include anyone who may supervise a prisoner at

some point. When the General Assembly statutorily precluded “guards at prisons” from striking, it certainly could not have intended to include all positions having some occasional supervisory role; indeed, in a prison, inmates are always subject to supervision by everyone else — as trustees, they sometimes supervise each other. The majority’s scope would essentially encompass any individual working with inmates.

The use of “guards at prisons” indicates not only traditional full-time correctional officers but also any prison employee whose duty is to provide security, keep order, ensure inmates remain in custody, and contribute to inmate rehabilitation. The integral purpose of every day-to-day task performed by a guard is to maintain a safe prison environment, i.e., conducting searches, escorting inmates, observing and assessing behavior, responding to incidents, compiling information and reports, and operating security equipment. Any act carried out by guards corresponds to their responsibility for the prison and its inmates. The term “prison guard” can entail much more than the term “correctional officer” — ranging from special operations response teams, gang units, and drug interdiction teams, to routine patrol officials, prison intake, watchtower sentinels, and camera security officers. The commonality amongst all of these employees is the reason they were hired — to guard.

In contrast, maintenance mechanics are not hired to guard anything. The sole basis for their hiring is to perform maintenance functions. Their duties include lawn care, landscaping, janitorial work, trash removal, and plumbing and electrical repair. The prison permits privileged inmates to assist maintenance mechanics, and although maintenance mechanics could report unlawful inmate behavior and supervise inmates by assuring they properly complete custodial duties, maintenance mechanics do not “guard” anything or anyone. They do not ensure inmates remain in custody or abide by sentencing terms, nor do they conduct disciplinary and investigatory acts, carry out

surveillance, or prevent escape. They have no training or experience in protecting the prison or handling its inmates, such as first aid, weapons, defense, suicide prevention, escapes, riots, or cell-block control. Their job functions do not equate to protecting or guarding the prison environment; their responsibilities are limited to overseeing prison maintenance and managing upkeep.

Further, as the Commonwealth Court applied the proper standard of review and found the Board's conclusions of law illegal, I cannot join the majority's holding that the court failed to apply the proper level of deference. See Lancaster County v. Pennsylvania Labor Relations Board, 35 A.3d 73, 78-79 (Pa. Cmwlth. 2012) ("Unless maintenance mechanics are considered prison guards, under this provision, it would be illegal to include them in a guards unit[.] ... Because [they] are not prison guards within the meaning of Section 604 ..., the Board erred in including them as part of the prison guards unit."). For these reasons, I respectfully dissent.

Mr. Chief Justice Castille joins this dissenting opinion.