

Dyersburg Cotton Products, Inc. and Textile Workers Union of America, AFL-CIO, Petitioner.
Case 26-RC-2862

January 2, 1968

DECISION, AND CERTIFICATION OF RESULTS OF ELECTION

BY CHAIRMAN McCULLOCH AND MEMBERS FANNING AND ZAGORIA

Pursuant to a Stipulation for Certification Upon Consent Election, an election by secret ballot was conducted on May 5, 1967, by the Regional Director for Region 26, among employees in the unit described below. After the election, the parties were furnished a tally of ballots which showed that of approximately 692 eligible voters, 680 cast ballots, of which 185 were for, and 473 against, the Petitioner, with 19 ballots challenged, and 3 were void. The challenged ballots are insufficient in number to affect the results of the election. Thereafter, the Petitioner filed timely objections to conduct affecting the election results.

In accordance with National Labor Relations Board Rules and Regulations, Series 8, as amended, the Regional Director conducted an investigation, and on June 5, 1967, issued and duly served upon the parties his Report on Objections, in which he recommended that Objections 1 and 5 be overruled, and that Objections 2, 3, and 4 be sustained, the election set aside, and a new election directed. Thereafter, the Employer filed timely exceptions to the Regional Director's Report.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel.

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The Petitioner is a labor organization claiming to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of the employees of the Employer within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act.

4. The parties stipulated, and we find, that the following employees constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All production and maintenance employees at the Employer's Dyersburg, Tennessee, plant, but excluding all office clerical employees, professional

employees, guards, and supervisors as defined in the Act.

5. The Board has considered the Regional Director's Report, and the exceptions thereto, and makes the following findings.¹

Objection 2 alleges that the company literature was so completely saturated with references to strikes, union violence, and corruption that employees were unable to vote in a free and fair election. Objection 3 states that the employees were threatened and coerced in captive audience meetings by repeated references to plant closings, strikes, union violence, and corruption so that they were unable to vote in a free and fair election.

The material in support of these objections consists of a pamphlet mailed in a plain envelope and received by employees on May 3, 1967, and a series of nine meetings, held by the Employer with groups of employees. At meetings on May 3 and 4, 1967, the Employer showed some 33 slides with running commentary by Childress, the editor of the "Spinnit," the company paper. The pamphlet consists of a series of clippings concerning, *inter alia*, strike cost, effects of union activity on industry, strike violence, plant closures, and union scandal. Of the slides shown, 22 dealt with present benefits enjoyed by employees, wage comparisons with union plants, and miscellaneous pictures such as pictures of the plant, and were not alleged to be objectionable by the Petitioner. The 11 slides, which, together with the commentary, were alleged to be objectionable, showed: newspaper clippings dealing with union violence; a newspaper clipping concerning a former officer of Petitioner who had been in the plant in a 1953 organizing campaign and who had subsequently been found guilty of conspiring to blow up a boiler at another plant; slides dealing with strikes, including cartoons and an "excerpt" from Board Rules and Regulations on the right to replace economic strikers; and, finally, a slide dealing with labor problems at a mill which Childress, the commentator, stated had gone out of business.

The Regional Director concluded that the main thrust of the Employer's campaign was the dire consequences of selection of Petitioner as bargaining representative, and he further concluded that the pamphlet and the slide show created an atmosphere of fear in which the exercise of free choice was not possible.

We disagree. Clearly, the Employer undertook an aggressive campaign against the Petitioner. However, the conduct complained of here did not involve unlawful threats against the employees if they selected the Union as their representative. In fact, most of the slides (22 out of 33) were concerned not with stressing the problems of unionism but rather

¹ In the absence of exceptions thereto, we adopt, *pro forma*, the Regional Director's recommendation that Objections 1 and 5 be overruled.

with highlighting the company benefits already enjoyed by the employees. In these circumstances, we cannot find that the Employer's conduct created an atmosphere of fear in which a free choice of representative was made impossible. Accordingly, we shall overrule Objections 2 and 3.

Also contrary to the recommendation of the Regional Director, we shall overrule Objection 4 which involved alleged threats and coercive statements by three supervisors. Two incidents – assuming they occurred as set forth by the Regional Director – though concerned with some limited questioning by supervisors, did not involve any unlawful threats or promises. The third incident, which occurred at an employee's home, did, as the Employer concedes, include improper comments, especially a promise of benefit – more overtime – if the employee would help the Company and not the Union. However, these incidents involved only 3 employees out of a unit of some 700. Further, there is no showing that the incidents were part of any broad scheme of the Employer to put unlawful pres-

sure upon its employees to reject the Union. Consequently, in these circumstances – the isolated nature of the incidents and the fact that the first two involved neither threats nor promises – we find that the conduct objected to does not warrant setting aside the election. Consequently, we shall, as stated, overrule Objection 4.

Accordingly, as we have overruled all the objections and as the Petitioner did not receive a majority of the votes cast, we shall certify the results of the election.

CERTIFICATION OF THE RESULTS OF THE ELECTION

It is hereby certified that a majority of the valid votes has not been cast for Textile Workers Union of America, AFL-CIO, and that said labor organization is not the exclusive representative of the employees in the unit found appropriate, within the meaning of Section 9(a) of the Act, as amended.