

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

VESSEY & COMPANY, INC. ,	)	
	)	Case No. 79-CE-190-EC
Respondent ,	)	
	)	14 ALRB No. 4
and	)	(11 ALRB No. 3)
	)	(7 ALRB No. 44)
UNITED FARM WORKERS OF	)	
AMERICA, AFL-CIO,	)	
	)	
Charging Party.	)	
<hr/>	)	

SUPPLEMENTAL DECISION AND CORRECTED ORDER

On February 2, 1988, the General Counsel filed a motion to correct a clerical error in the remedial order previously issued in this matter (See Vessey & Company, Inc. (1985) 7 ALRB No. 44 and 11 ALRB No. 3 ). The motion alleges that eight names had been omitted from the order issued.

On the basis of the above and the record as a whole, we find that the General Counsel established that the omission of the eight names from paragraph 2(a) of our prior order was due to clerical error. Therefore, we hereby grant the General Counsel's motion.

Paragraph 2(a) of our previous order is hereby corrected and that order is replaced by the following.

ORDER

By authority of Labor Code section 1160.3, the Agricultural Labor Relations Board (Board) hereby orders that Respondent Vessey & Company, Inc., its officers, agents, successors, and assigns shall:

1. Cease and desist from:

( a ) Failing or refusing to rehire or reinstate, or otherwise discriminating against, any agricultural employee because of his or her union activities or sympathies.

( b ) In any like or related manner interfering with, restraining, or coercing any agricultural employees in the exercise of their rights guaranteed by Labor Code section 1152.

2. Take the following affirmative actions which are deemed necessary to effectuate the purposes of the Agricultural Labor Relations Act ( Act ) :

( a ) Offer to the following strikers who offered to return to work on December 4, 1979, full and immediate reinstatement to their former or substantially equivalent jobs without prejudice to their seniority rights or other employment rights and privileges and reimburse them for any loss of pay and other economic losses they have suffered as a result of Respondent's failure or refusal to rehire or reinstate them on and after December 4, 1979, reimbursement to be made in accordance with the formula established by the Board in J & L Farms (1980) 6 ALRB No. 43, plus interest at a rate of 7 percent per annum until August 18, 1982, and thereafter in accordance with Lu-Ette Farms, Inc. (1982) 8 ALRB No. 55:

Maria Ahumado  
Porfirio Aguilar  
Jose M. Araujo  
Librado Barajas  
Maria Elena Beltran  
Isidro Bojorquez  
Jesus J. Carrajal  
Lazarro Castillo  
Antonio Caudillo

Ma. Jesus Espinoza  
Pedro Espinoza  
Isabel Estra  
Ramiro Garcia  
Carlos Gil  
Arturo Guerra M.  
Antonio Gonzalez  
Elio Gonzales  
Estella Gonzalez

2.

Fidel Coronado  
Antonio Cortez  
Maria Dominguez  
Enrique Dominguez  
Rafael Escovar  
Isidra Hueso  
Ramon Hueso  
Rodrigo Hueso  
Acencion Leon  
Jesus J. Leon  
Alejandro Lopez  
Fidencio M. Lopez  
Silviano Mariscal  
Andrea Martinez  
Vincente Martinez  
Sara Oropeza  
Celia Palacios  
Maria de Partida  
Segundo Partida  
Simon Pineda  
Efrain Reyes  
Jorge Reynosa

Armando Guerrero  
Jose Luis Guerrero  
Armando Hernandez  
Margarito Hernandez  
Jose Hernandez  
Fidelis Romero  
Ramon L. Santos  
Adilon Saucedo  
Jesus Servin  
Francisco Sepulveda, Jr.  
Francisco Sepulveda, Sr.  
Pablo Testa  
Juan Tirado  
Jose C. Tirado  
Ruben Vallejo  
Jesus Vega  
David Velasquez  
Juan Velasquez  
Martin Velasques  
Tranquilino Verdusco  
Guadalupe Zavala

( b ) Preserve and, upon request, make available to the Board and its agents, for examination and photocopying and other copying, all payroll records, social security payment records, time cards, personnel records and reports, and all other records relevant and necessary to a determination, by the Regional Director, of the backpay period and the amount of backpay due under the terms of this Order.

( c ) Sign the Notice to Agricultural Employees attached hereto and, after its translation by a Board agent into appropriate languages, reproduce sufficient copies in each language for the purposes set forth hereinafter.

( d ) Mail copies of the attached Notice, in all appropriate languages, within 30 days after the date of issuance of this Order, to all employees employed by Respondent at any time from December 4, 1979, to December 4, 1980.

( e ) Post copies of the attached Notice, in all appropriate languages, for 60 days in conspicuous places on its premises, the period(s) and place(s) of posting to be determined by the Regional Director, and exercise due care to replace any copy or copies of the Notice which may be altered, defaced, covered, or removed.

( f ) Arrange for a representative of Respondent or a Board agent to distribute and read the attached Notice, in all appropriate languages, to all of its agricultural employees on company time and property, at time(s) and place(s) to be determined by the Regional Director. Following the reading, the Board agent shall be given the opportunity, outside the presence of supervisors and management, to answer any questions the employees may have concerning the Notice or employees' rights under the Act. The Regional Director shall determine a reasonable rate of compensation to be paid by Respondent to all nonhourly wage employees to compensate them for time lost at this reading and the question-and-answer period.

( g ) Notify the Regional Director in writing, within 30 days after the date of issuance of this Order, of the steps Respondent has taken to comply with its terms, and continue to

//////////

//////////

report periodically thereafter, at the Regional Director's request, until full compliance is achieved.

Dated: April 25, 1988

BEN DAVIDIAN, Chairman<sup>1/</sup>

JOHN P. McCARTHY, Member

GREGORY L. GONOT, Member

IVONNE RAMOS-RICHARDSON, Member

WAYNE R. SMITH, Member

---

<sup>1/</sup>The signatures of Board Members in all Board Decisions appear with the signature of the Chairman first, if participating, followed by the signatures of the participating Board Members in order of their seniority.

CASE SUMMARY

Vessey & Co. , Inc.  
(UFW)

14 ALRB No. 4  
Case No. 79-CE-190-EC  
(11 ALRB No. 3)  
(7 ALRB No. 44)

BACKGROUND

In Vessey & Company, Inc. , 11 ALRB No. 3 and 7 ALRB No. 44 , at paragraph 2 ( a ) of the remedial order, the Board ordered the Company to, inter alia, offer immediate and full reinstatement, without prejudice to their seniority and other employment rights, and reimbursement for any loss of pay and other economic losses to those strikers who had offered to return to work at the date specified in the order. Paragraph 2( a ) of each order set forth a list of the names of the discriminatees who were to be offered reinstatement and reimbursement.

On February 2, 1988, the General Counsel filed a motion to correct clerical error alleging the Board had inadvertently omitted the names of eight discriminatees in paragraph 2( a ) of each of the above-mentioned orders, due to clerical error. In its motion, the General Counsel argued the omission of the eight names was clerical error rather than judicial error and that the Board was authorized to correct the clerical error pursuant to California Code of Civil Procedure section 473. The General Counsel also relied upon MCC Pacific Valves (1980) 253 NLRB No. 50 [105 LRRM 1585], Royal Packing Company (1986) 12 ALRB No. 25, and M. Caratan (1983) 9 ALRB No. 35 (Erratum) as further support for its motion.

SUPPLEMENTAL DECISION AND CORRECTED ORDER

On the basis of the General Counsel's motion and the record as a whole, the Board found the General Counsel had established the omission of the eight names was due to clerical error and granted the motion. The Board issued a Supplemental Decision and Corrected Order which added the eight names to paragraph 2( a ) of the Order.

\* \* \*

This Case Summary is furnished for information only and is not an official statement of the case, or of the ALRB.