

STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD

°BRUCE CHURCH, INC.,	)	Case Nos .	79-CE-176-EC
	)		79-CE-87-SAL
Respondent ,	)		79-CE-216-SAL
	)		80-CE-151-EC
and	)		80-CE-167-EC
	)		80-CE-192-EC
UNITED FARM WORKERS	)		80-CE-255-EC
OF AMERICA, AFL-CIO,	)		80-CE-261-EC
	)		80-CE-284-EC
Charging Party,	)		80-CE-26-SAL
	)		80-CE-26-1-SAL
and	)		80-CE-64-SAL
	)		80-CE-168-SAL
HECTOR DIAZ,	)		80-CE-168-1-SAL
	)		80-CE-168-2-SAL
Charging Party,	)		80-CE-168-3-SAL
	)		80-CE-168-4-SAL
and	)		80-CE-168-5-SAL
	)		
JUAN CASTRO,	)	17 ALRB No. 11	
	)	(14 ALRB No. 20)	
Charging Party.	)	(9 ALRB No. 74)	
	)		

SUPPLEMENTAL DECISION AND REVISED ORDER

On March 11, 1986, the Court of Appeal, Fifth Appellate District, issued an unpublished opinion reviewing the Agricultural Labor Relations Board's (ALRB or Board) Decision in 9 ALRB No. 74. The Court of Appeal concluded that the Board's finding that Respondent Bruce Church, Inc. (BCI) began bargaining in bad faith with the United Farm Workers of America, AFL-CIO (UFW) on March 15, 1979, and continued to bargain in bad faith throughout the parties' negotiations, could not be upheld. The court further concluded that the Board's finding of unlawful unilateral changes in wages and benefits in July 1979 could not be upheld, as the July 1979 changes did not evidence bad faith

and thus did not violate the Agricultural Labor Relations Act (ALRA or Act).

Concerning the unilateral changes implemented by BCI on February 27, 1980 and September 1, 1980, the court determined that the question of whether the parties were at impasse on those dates had to be resolved in order to decide whether the unilateral changes were lawful. Concluding that the Board was better suited than the court to resolve the impasse question, the court remanded the case to the Board for consideration of that issue.

Pursuant to the Court of Appeal's instructions on remand, the Board, in 14 ALRB No. 20, considered whether impasse existed when BCI implemented unilateral changes on February 27, 1980 and September 1, 1980. The Board concluded that the parties were at impasse on February 27, 1980, and that BCI's wage and benefit changes on that date were therefore lawful. However, the Board determined that the impasse was broken prior to September 1, 1980, and that consequently BCI's unilateral change on that date constituted a per se violation of the ALRA.

On July 15, 1991, the Court of Appeal, Fifth Appellate District, issued an unpublished opinion reviewing the Board's Decision in 14 ALRB No. 20. The court found that on February 26, 1981, the parties had stipulated that in February 1980 BCI adopted an economic package providing for periodic future automatic wage increases, including the September 1980 wage increase. The court ruled that the Board's conclusion that the

September 1980 wage increase was improper was based upon the incorrect premise that the increase was something other than the continuation of the status quo that was adopted in February 1980. Since the September 1980 increase was an automatic continuation of the lawful increase in February 1980, the court concluded, the September 1980 wage increase was also lawful.

The Court of Appeal also concluded that the Board's finding that BCI violated the Act by treating returning strikers as economic strikers could not stand. The court determined that the returning strikers were economic strikers, not unfair labor practice strikers, since BCI's unilateral changes were lawful and there were no other unfair labor practices which the strikers could have been protesting.

The court annulled the Board's Order in 14 ALRB No. 20, remanded the case to the Board, and directed the Board to discharge the complaint against BCI. In accordance with the court's decision, we hereby substitute the following Revised Order for the prior order annulled by the court.

REVISED ORDER

Pursuant to section 1160.3 of the Agricultural Labor Relations Act, the Agricultural Labor Relations Board orders that

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the complaint herein be, and it hereby is, dismissed in its entirety.

Dated: September 19, 1991

BRUCE J. JANIGIAN, Chairman<sup>3</sup>

IVONNE RAMOS RICHARDSON, Member

JIM ELLIS, Member

JIM NIELSEN, Member

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<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

Bruce Church, Inc.  
(UFW/Hector Diaz/Juan Castro)

17 ALRB No. 11  
Case Nos. 79-CE-176-EC, et al.  
(14 ALRB No. 20)  
(9 ALRB No. 74)

This case came to the Board on remand from the Court of Appeal. The court reversed the Board's finding in 14 ALRB No. 20 that Respondent's unilateral wage and benefit changes on September 1, 1980 were unlawful. The court concluded that, rather, the September 1980 changes were merely a continuation of the status quo of changes made in February 1980 which were lawfully implemented after an impasse in negotiations. The court also reversed the Board's earlier determination that Respondent violated the Agricultural Labor Relations Act by treating returning strikers as economic strikers rather than unfair labor practice strikers; since Respondent's unilateral changes were lawful, the court concluded, the returning strikers were economic strikers and thus were lawfully treated as such.

The court annulled the Board's Order in 14 ALRB No. 20, remanded the case to the Board, and directed it to discharge the complaint against Respondent. Acting in accordance with the court's remand instructions, the Board substituted for the annulled Order a Revised Order dismissing the complaint in its entirety.

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

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