

Holtville, California Salinas,
California

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

BRUCE CHURCH, INC.,)	
)	
Respondent,)	Case Nos. 79-CE-171-EC
)	81-CE-147-SAL
and)	82-CE-16-SAL
)	
UNITED FARM WORKERS OF)	
AMERICA, AFL-CIO,)	17 ALRB No. 12
Charging Party.)	(9 ALRB No. 75)
_____)	(November 5, 1991)

SUPPLEMENTAL DECISION AND REVISED ORDER

On September 17, 1991, the Court of Appeal, Fifth Appellate District, remanded this matter, 9 ALRB No. 75, to the Agricultural Labor Relations Board (ALRB or Board) with instructions to amend the Board's Order to comply with the previous stipulation of the parties.

Pursuant to the provisions of Labor Code section 1146, the Board has delegated its authority in this matter to a three member panel.

The prior stipulation of the parties provided that the legality of the September, 1981 wage increase by Respondent Bruce Church, Inc. would be controlled by the final determination as to the legality of earlier wage increases in Case No. 79-CE-87-SAL. Inasmuch as the Court of Appeal, in an unpublished opinion reviewing the Board's decision in 79-CE-87-SAL, has determined

that the earlier increases were lawful, the September, 1981 increase was therefore also lawful.¹

The determination that the September, 1981 wage increase was lawful leaves as the only remaining violation in 9 ALRB No. 75 the finding that foreman Manuel Guizar violated Labor Code section 1153(a) in mid-September, 1981 when he instructed Guadalupe Arvizu to stop talking about union affairs with a fellow worker on a lettuce harvesting crew, and threatened a disciplinary warning if she did not. In the absence of any rule of an employer prohibiting conversation of all kinds on the job, employees have the same right to discuss union activities as other subjects. In view of the clear cut nature of the offense and taking into account that it was one isolated incident and that no disciplinary notice followed upon the warning, we believe the cease and desist order which follows to be the most appropriate remedy under the circumstances of this case.

Therefore, in accordance with the court's instructions on remand, we hereby amend and substitute the following revised order for our prior order in 9 ALRB No 75:

REVISED ORDER

Pursuant to section 1160.3 of the Agricultural Labor Relations Act, the Agricultural Labor Relations Board orders that Respondent Bruce Church, Inc., its officers, agents, successors, and assigns, shall cease and desist from:

¹ See Bruce Church, Inc. (1991) 17 ALRB No. 11 for the Board's treatment of Case No. 79-CE-87-SAL on remand.

1. Threatening any agricultural employee with a disciplinary notice for communicating with another such employee or employees concerning a union or union benefits, or otherwise interfering with any agricultural employee's right to engage in union activity.

2. In any like or related manner interfering with, restraining, or coercing any agricultural employee in the exercise of the rights guaranteed by section 1152 of the Agricultural Labor Relations Act.

Dated: November 5, 1991

BRUCE J. JANIGIAN, Chairman

IVONNE RAMOS RICHARDSON. Member

JIM ELLIS, Member

CASE SUMMARY

Bruce Church, Inc.
(UFW /Guadalupe Arvizu)

17 ALRB No. 12
Case Nos. 79-CE-171-EC, et al.
(9 ALRB No. 75)

This case came to the Board on remand from the Court of Appeal with instructions to the Board to reconsider its decision 9 ALRB No. 75 in light of the Court of Appeal decision that the unilateral wage increases that were the subject of Board decision 9 ALRB No. 74 were lawful and the parties' stipulation that the lawfulness of the wage increases that were the subject of 9 ALRB No. 75 would be resolved by whatever final determination was reached with respect to the earlier increases at issue in Board decision 9 ALRB No. 74.

Acting in accordance with the court's instructions, the Board found no violation of the Act in the implementation of the unilateral wage increase. The sole remaining violation of the Act was a single incident. Foreman Manuel Guizar instructed Guadalupe Arvizu to stop talking about union affairs with a fellow worker and threatened a written reprimand if she continued the discussion. Since there was no work rule prohibiting talking while working, Arvizu was free to discuss union matters without interference from the employer. In view of the isolated nature of the offense, the Board considered the cease and desist order a sufficient remedy, and modified the order to dispense with the notice requirements.

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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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