

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)
A. & N. ZANINOVICH,) No. 75-RC-26-F
Employer,) 1 ALRB NO. 21
and)
WESTERN CONFERENCE OF TEAMSTERS,)
AGRICULTURAL DIVISION, IBT,)
Petitioner,)
and)
UNITED FARM WORKERS OF AMERICA,)
AFL-CIO,)
Intervenor)

On September 11, 1975, the Board conducted an election among the employer's agricultural employees. The results of the election, as indicated by the tally, were 97 votes for the Teamsters, 33 votes for the UFW, and 15 unresolved challenged ballots. The UFW filed objections pursuant to Labor Code Section 1156.3 (c).¹

¹At the hearing the employer moved that the entire proceeding be dismissed on the basis that the employer was never served with a copy of the petition as required by 8 Cal. Admin. Code § 20365(a). The objections petition was accompanied by proper proof of service. Section 20400.3 of 8 Cal. Admin. Code, pertaining to the service and filing of papers, provides that: "Failure to comply with the requirements of this section relating to timeliness of service on other parties shall be a basis for either (a) a rejection of the document or (b) withholding or reconsidering any ruling on the subject matter raised by the document until after service has been made and the served party has had reasonable opportunity to respond." (Emphasis added.) The record here reveals that: (1) the employer was served with a Notice of Hearing 21 days prior to the hearing;

(fn. cont. on p. 2)

The UFW contends that:

1. The employer enforced an invalid no-solicitation rule and enforced it in a discriminatory manner; and
2. The employer campaigned improperly on behalf of the Teamsters.

We find that the evidence does not support the contentions and hereby certify the results.

1. The first issue is the UFW allegation that the employer denied its organizers access to its property for purposes of organizing, while granting such access to the Teamsters.

Mr. Eduardo Cuellar, a UFW organizer, testified that the day preceding the election, he and two other UFW organizers were ordered off the employer's property while attempting to talk to the employer's employees. Mr. Cuellar stated that the field from which he was ejected was located approximately ten miles east of Delano on Garces Road and approximately 300 yards south of Garces. The employer produced evidence that it owned no property located more than approximately five and one-half miles east of Delano, and that the employer did not own any property located ten miles east of Delano. Its Superintendent, Rex Vosburgh, specifically stated that the employer did not own any property ten miles east of Delano on

(fn.1 cont.)

such notice informed him of the nature of the objections; (2) the hearing officer offered to entertain a motion for continuance, which offer was rejected by counsel.

In view of the foregoing, we sustain the denial of the employer's motion.

Garces and approximately 300 yards south of Garces.

Moreover, Mr. Cuellar did not know who owned the land upon which the incident occurred. He stated that there were no signs of any sort indicating that this property belonged to the employer. Further, he testified that he did not know who employed the individuals working on this land nor could he identify the person who ordered him to leave the property.

In view of the above, we find that the UFW did not produce any evidence connecting the land or the unknown person with the employer.

The only evidence offered to support the UFW's allegation that the employer denied UFW organizers access to its property is a letter from the employer to the UFW dated August 23, 1975, which stated that the UFW organizers would not be permitted access to its property. Despite this letter, however, the evidence indicates that the employer did, in fact, allow the UFW access to its fields. Both the UFW and the Teamsters were in the employer's field on a daily basis. While in the fields, these organizers distributed literature and engaged in discussions with the workers.

We find, therefore, that the objection is not sustained by the evidence.

2. The second objection alleges that the employer campaigned improperly on behalf of the Teamsters. Although the UFW introduced no evidence directly relating to this issue, its organizer testified that the Teamsters and the employer attempted to utilize the same observers.

He admitted, however, that when the election began, the employer and the Teamsters each appeared to have their appropriate observers present.

This objection therefore, is not sustained by the evidence and is hereby dismissed.

CONCLUSION

Based on the foregoing, we conclude that there are no grounds for setting aside this election and we therefore, hereby order that it be certified. Certification issued.

Dated: December 16, 1975

Roger M. Mahony
Roger M. Mahony, Chairman

LeRoy Chatfield
LeRoy Chatfield

Joseph R. Gordin
Joseph R. Gordin

Richard Johnsen, Jr.
Richard Johnsen, Jr.

Joe C. Ortega
Joe C. Ortega