

BEFORE THE AGRICULTURAL LABOR RELATIONS BOARD OF
THE STATE OF CALIFORNIA

HEROTA BROTHERS,)	
)	
Employer,)	No. 75-RC-4-S
)	
and)	1 ALRB No. 3
)	
UNITED FARM WORKERS OF AMERICA,)	
AFL-CIO,)	
)	
Petitioner.)	
_____)	

On September 3, 1975, a Petition for Certification was filed by the United Farm Workers of America, AFL-CIO (" UFW ") seeking to represent all employees of the Employer engaged in the production and harvesting of the Employer's agricultural commodities in Sutter County, California. Pursuant to the Direction and Notice of Election issued by the Sacramento Regional Director of the Board, an election was conducted on September 10, 1975, from 11:30 a.m. to 7:00 p.m. in the loading area of the Employer's premises. Of approximately 167 eligible voters, 71 cast votes for the UFW, 41 cast votes for no union, and 2 votes were challenged. On September 15, 1975, the Employer filed an Objection Petition pursuant to Section 1156.3(c) of the Labor Code. On September 26, 1975, the Board in accordance with Section 1156.3(c) of the Labor Code issued a Notice of Hearing on said objections. A hearing was held on October 6, 1975, in Sacramento, California, before Hearing Officer James R. Webster.

The Employer makes two contentions upon which he would have this Board set aside the election: (1) That the conduct of two UFW representatives in conversing with two union election observers in the employee parking area 450 feet from the voting area, constituted conduct affecting the results of the election. (2) That a bumper sticker on the rear bumper of the automobile of the UFW representatives which contained the statement "Vote UFW", and which may have been seen by some employees when the car was in the employee parking lot approximately 450 feet from the voting area, constituted conduct affecting the results of the election. We find both contentions to be without merit.

First, with respect to the conversation held between the UFW representatives and the two observers, we find that since the conversation occurred outside the polling area, there is no basis for holding that it interfered with the election. See, Marvil Int'l. Security Service, 173 NLRB No. 192, 70 LRRM 1003 (1968). Harold W. Moore & Son, 173 NLRB No. 191, 70 LRRM 1002 (1968).¹

Second, we find the fact that some of the employees were exposed to a bumper sticker urging them to "Vote UFW" is not determinative. Evidence presented indicated that the bumper sticker, because of its location and size on the car,

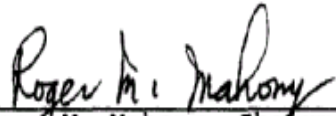
¹In the Harold W. Moore case, the NLRB held that conversations between union representatives and employees did not violate the rule established in Milchem, Inc. (67 LRRM 1395), since voters were not in polling area or in line waiting to vote. Furthermore, the Board held that since the conduct had taken place 60 feet from the ballot box, even if it had consisted of electioneering, it would not have constituted objectionable conduct under the holding in Star Expansion Industries Corp., 170 NLRB No. 47, 67 LRRM 1400.

could not readily be seen by those in the polling area. Except for the first 10 minutes of the voting period, it could not be seen by anyone in the voting area. Even if the sticker could have been seen by the workers on their way to the polls, it would not warrant setting aside the election. See, Electro Cube, Inc., 199 NLRB No. 73, 81 LRRM 1312 (1972).

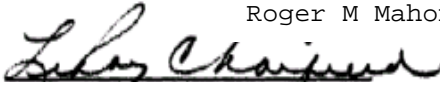
Since the conduct of the union's representatives does not constitute grounds for setting aside the election, we certify the UFW as the representative of the employees.

Certification issued.

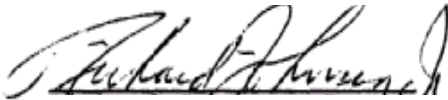
Dated: October 23, 1975



Roger M Mahony, Chairman

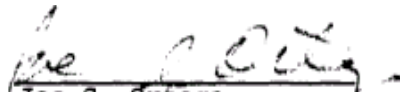


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Richard Johnsen, Jr.

Joseph R. Grodin



Joe C. Ortega