

STATE OF CALIFORNIA
 AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)	
)	
JERRY GONZALES FARMS,)	NO. 75-RC-21-R
)	
Employer,)	
)	
and)	
)	
UNITED FARM WORKERS)	
OF AMERICA, AFL-CIO,)	
)	
Petitioner.)	
)	
TAKEO AZUMA,)	NO. 75-RC-28-R
)	
Employer,)	
)	2 ALRB No. 33
and)	
)	
UNITED FARM WORKERS)	
OF AMERICA, AFL-CIO,)	
)	
Petitioner.)	
)	

Representation elections were held among the employees of the above-listed employers on October 7 and October 10, 1975, respectively. The United Farm Workers of America, AFL-CIO ("UFW") received the majority of votes in both elections. ^{1/} Both employers filed identical objections petitions. Two of the three

/////////
 //////////

^{1/}At Jerry Gonzales Farms, the tally was UFW 10; no union 1. At Takeo Azuma, the UFW received 25 votes; "no union" received 3; and there was one challenged ballot.

objections were dismissed.^{2/} As to the third, alleging that agents of the state Employment Development Department (" EDD ") sent farm worker applicants for financial assistance to the UFW office at which time union authorization cards were solicited, the Board ordered the parties to show cause why the issue should not be considered on the basis of the testimony and documentary evidence submitted on the identical issue at the evidentiary hearing in another case. TMY Farms, 75-RC-13-R. There was no response to the orders to show cause. Consequently, we proceed to decide the issue on the basis of that previously submitted evidence and, because of the identity of the issue in both cases, consolidate the cases for decision.

The evidence on this point showed that in January, February and March 1975, the San Ysidro EDD office referred a total of approximately 450 farm workers, who were applying for federally-funded unemployment insurance, to the UFW office in San Ysidro for help in filling out the necessary application forms.

^{2/} One of the dismissed objections challenged the use of symbols on the ballot. 8 Cal. Admin. Code, §21000. It was appropriately dismissed as constituting an attack on one of the Board's regulations, and therefore not a proper subject for post-election review. Labor Code, §1156.3 (c) . See Samuel S. Vener Company, 1 ALRB No. 10 (1975) . The other objection alleged that the UFW engaged in misrepresentations by distributing leaflets stating that the union charged no initiation fees when the UFW constitution provides for such fees. Although dismissed because of procedural defects, we note additionally that this precise misrepresentation claim was litigated in Egger & Ghio Company, 1 ALRB No. 17 (1975) , Samuel S. Verier, supra, and Hemet Wholesale, 2 ALRB No. 24 (1976) and found without merit. This objection, based on the same supporting declaration submitted in Egger & Ghio and Samuel S. Vener, was properly dismissed here. The motions of both employers for reconsideration of these partial dismissals are therefore denied.

The referral policy was established because various EDD field offices lacked sufficient Spanish-speaking personnel to assist the large number of farm workers who applied for the federal unemployment benefits which were first extended to farm workers in January 1975.^{3/}

A UFW representative testified that she "sometimes" talked to the applicants whom she was assisting about the merits of joining the UFW and that an undetermined number of the persons referred joined the union and signed authorization cards. Referrals by the San Ysidro EDD office ended in late March 1975 when that office acquired enough personnel to service the farm worker unemployment applicants; that was six months before the Agricultural Labor Relations Act went into effect and over seven months before these elections. There was no evidence that any of the farm workers referred to the UFW ever worked for either of these employers or voted in these elections.

This evidence is essentially identical to a declaration on the same issue considered in Samuel S. Vener Company, *supra*. See also Chula Vista Farms, Inc., 1 ALRB No. 23 (1975); Egger & Ghio Company, *supra*, 1 ALRB No. 17. There we affirmed the dismissal of the same objection on two grounds. First, insofar as the allegations related to the gathering of the UFW's showing of interest, the matter was held not reviewable in a post-election proceeding. 8 Cal. Admin. Code, §20315 (c). See generally John V. Borchard Farms, 2 ALRB No. 16 (1976). Second, in the

^{3/} A memorandum from the EDD Deputy Director, which was introduced into evidence, stated that applicants around the state were referred to employers, unions, and community groups.

absence of evidence that the workers referred by EDD were employed by the employer or voted in the challenged election, there was no showing that the conduct complained of affected the election. This lack of cause-and-effect relationship is particularly striking in view of the remoteness in time of the challenged actions. We reaffirm these grounds, and overrule the objections in these two matters.

In Case No. 75-RC-21-R, the United Farm Workers of America, AFL-CIO, is certified as the bargaining representative of all the agricultural employees of Jerry Gonzales Farms. In Case No. 75-RC-28-R, the United Farm Workers of America, AFL-CIO, is certified as the bargaining representative of all the agricultural employees of Takeo Azuma.

Certifications issued.

Dated: February 23, 1976

Roger Mahony
Levy Chapfield

James R. Swaine
Richard J. Hansen