

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

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| In the Matter of: |) | |
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| KONDA BROTHERS, |) | NO. 75-RC-22-F |
| |) | |
| Employer, |) | |
| |) | 2 ALRB No. 34 |
| and |) | |
| |) | |
| WESTERN CONFERENCE |) | |
| |) | |
| OF TEAMSTERS, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| and |) | |
| |) | |
| UNITED FARM WORKERS |) | |
| |) | |
| OF AMERICA, AFL-CIO, |) | |
| |) | |
| Intervenor. |) | |
| |) | |

Following an election at Konda Brothers Ranch on September 9, 1975, at which all ballots were cast for the Western Conference of Teamsters, I. B. T. , and affiliated locals,^{1/} the United Farm Workers, AFL-CIO ("UFW"), as intervenor, filed objections to the election alleging that supervisory personnel were in the polling area during voting, that the ALRB agent did not properly police the polling area, and that the employer interfered with employees' rights to organize and discouraged membership in the UFW by promulgating and enforcing a no-solicitation rule and engaging in surveillance of employees engaged in protected activities.

Supervisory Personnel in Polling Area

The election was held in the field on the ranch and no

^{1/1}The tally was Teamsters 44, UFW 0, No Union 0.

specific boundaries were marked off for the polling area. The Board agent instructed the workers waiting to vote to move about 50 feet away from the polls, and instructed the representatives of the unions and the employer to move further away. The representatives of both unions then moved to a position across the road from the voting area, about 800 to 1500 feet away. UFW organizers testified that for approximately 10 minutes after voting started the employer and members of his family moved to a lesser distance, some 100 to 150 feet away from the polls.

There was conflicting testimony as to whether voting had actually commenced within the brief period during which the employer and members of his family were present near the polling area. There is no evidence that they spoke with any workers, and when the Board agent motioned for them to move further away they moved to the road across from where the union representatives stood and remained there throughout the voting, which took place over a two-hour period. This was the only evidence relating to policing of the polling area or the presence of supervisory personnel in the polling area. We do not regard the conduct as sufficiently substantial to warrant setting the election aside.

Murray Ohio Mfg. Co., 156 NLRB 840 (1966).

Employer Interference

On September 4, 1975, UFW organizers went to the Konda Ranch to talk to workers during the noon hour. Mr. Konda at first informed them that there was no set lunch hour and told them to leave, but after some discussion he allowed the organizers to enter the fields and talk with the employees. The UFW objection is that Konda lingered in the vicinity while its organizers talked with

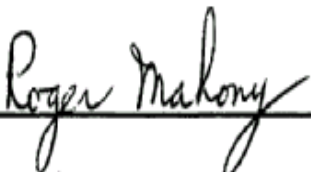
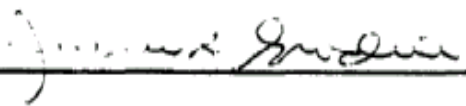
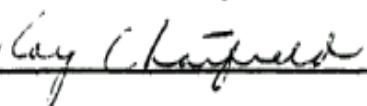
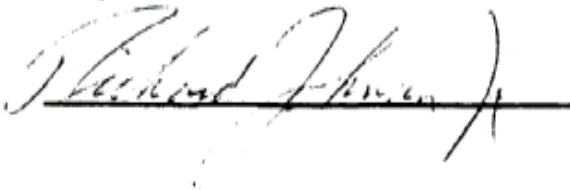
employees, and that this conduct constituted unlawful surveillance.

The employees were in fact working during the period in which the UFW organizers were allowed on the property. Konda was their supervisor, and was normally present to supervise their work. Hence, his presence was not unusual. The evidence was conflicting as to his proximity to the conversations which took place between organizers and workers, and does not clearly establish either an attempt or the appearance of unlawful surveillance. See Randall's, 157 NLRB 86 (1966). Accordingly, we decline to set the election aside on this ground.

The Western Conference of Teamsters and affiliated local unions is certified as bargaining representative for all agricultural employees of Konda Brothers.

Certification issued.

Dated: February 23, 1976

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