

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

SEARS-SCHUMAN COMPANY,)	
)	
Employer)	
)	
and)	
)	
WESTERN CONFERENCE OF TEAMSTERS,)	No. 75-RC-54-M
I . B . T . . ,)	
)	
Petitioner,)	2 ALRB No. 7
)	
and)	
)	
UNITED FARM WORKERS OF AMERICA,)	
AFL-CIO,)	
)	
Intervenor)	

On September 10, 1975, the Western Conference of Teamsters, I. B. T. . , filed a Petition for Certification; the United Farm Workers of America, AFL-CIO (" UFW ") intervened, and an election was held on September 17, 1975.^{1/} The UFW objects to certification of the election on the ground that the employer interfered with the election (1) "by keeping the workers (especially Filipino workers) in constant fear of losing their 'special benefits' if the UFW won the election," and (2) by "creating such [an] atmosphere of intimidation and intense fear that workers would not even acknowledge the presence of UFW organizers talking to them if the foreman was in sight."

^{1/}The election tally: Teamsters - 85 , UFW - 36 , No union - 3 , and unresolved challenged ballots - 2.

In support of these allegations, the UFW presented testimony of three witnesses, all UFW organizers, each of whom had engaged in campaign efforts on behalf of the union prior to the election at Sears & Schuman Company. One of these witnesses, Philip Vera Cruz, testified that on the one occasion he visited the company's fields, some of the workers told him to go to the boss because if he favored the UFW then they would be for it. When told by Mr. Vera Cruz that their vote was for them to decide, not the boss, these workers responded, "Yeah, but we want to work." Mr. Vera Cruz also testified that he distributed leaflets to some workers but that others refused to take the leaflets and wouldn't even look at him.

The second UFW witness, Jose Carlos Ruiz, testified that he had gone to the employer's fields about two weeks prior to the election, and that on this occasion a supervisor had yelled at him to stay out of the fields because it was private property. After a brief conversation with this supervisor, Mr. Ruiz went into the fields and handed out leaflets. Mr. Ruiz' description of this incident was corroborated by the third UFW witness, Alfredo Santos, who added that he too had talked with the supervisor after Mr. Ruiz had gone into the fields. The supervisor then went into the fields "[t]owards Carlos Ruiz." To Mr. Santos "[i]t looked like a chase," but the supervisor "didn't get close to Mr. Ruiz." Neither organizer was physically restrained from entering the fields, and there is no indication of any further confrontation with the supervisor. Mr. Santos also testified that while he was campaigning

at the ranch on another occasion, a group of Filipino workers refused to accept the fliers he was distributing and that "[n]o one would would even look at me." He admitted, however, that other workers did take the fliers on this and one other occasion.

From the reaction of the workers on these occasions, the UFW organizers inferred that the workers were afraid of the company's supervisors and in fear of losing their "special organizers benefits."^{2/} Apart from the inferences drawn by the, there is no evidence to support the claim that the workers feared losing their "special benefits" if the UFW won the election. On the contrary, six workers testified on behalf of the employer to the effect that they did not fear any loss of benefits after the election, and that they were not told how to vote in the election by anyone from the company.

More importantly, the record is utterly devoid of any evidence which would suggest that the employer had threatened the employees with a loss of their "special benefits" if the UFW won the election or that the employer had in any way told the workers whom to vote for in the election. Furthermore, while some of the workers may not have acknowledged the presence of the UFW organizers, there is no indication that this was a result of misconduct by the employer or his supervisors.

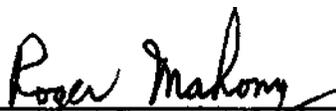
Under NLRB precedent, employer threats of economic reprisal in the event of union victory could constitute

^{2/}The nature of these "special benefits" was never established in the record.

such interference with an election as to warrant setting aside that election,^{3/} especially where the employer's conduct tends "to engender so much fear of reprisal as would render impossible rational, uncoerced decision by the employees.^{4/} The evidence in the case before us fails to establish any conduct or threats by the employer calculated to create such fear. The fact that some workers refused to talk with the organizers or accept leaflets is not sufficient to establish the requisite fear and intimidation which would warrant setting this election aside. Accordingly, we certify the election results.

Certification issued.

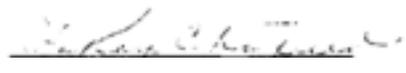
Dated: January 13, 1976



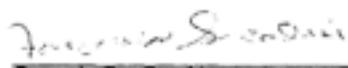
Roger Mahony, Chairman



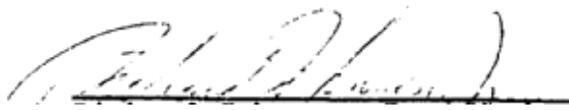
Joe C. Ortega



LeRoy Chatfield, Member



Joseph R. Grodin



Richard Johnsen, Jr., Member

^{3/}E.g., Detroit Plastic Molding Co., 213 NLRB No. 120 (1974), Frank Smith & Sons Co., 211 NLRB No. 20 (1974), Mohawk Bedding Co., 204 NLRB No. 1 (1973), Globe-Union, Inc., 194 NLRB 1076 (1972).

^{4/} Oak Manufacturing Co., 141 NLRB 1323 (1963).