

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)	Case Nos. 07-RD-1-SAL
)	
GALLO VINEYARDS, INC.,)	
)	ORDER DENYING REQUEST
Employer,)	FOR REVIEW OF DECISION TO
)	DIRECT AN ELECTION
and)	
)	(Admin Order 2007-04)
ROBERTO PARRA,)	
)	
Petitioner,)	
)	
and)	
)	
UNITED FARM WORKERS OF)	
AMERICA,)	
)	
Certified Bargaining)	
Representative.)	

Background

On Monday June 18, Roberto Parra an employee of Gallo Vineyards, Inc.(Gallo or Employer), filed a decertification petition (Case No. 07-RD-1-SAL), seeking to remove the United Farm Workers of America (UFW or Union) as the exclusive bargaining representative of Gallo's agricultural employees in Sonoma County. The petition was evaluated by the Salinas Regional Office which determined the statutory prerequisites for the petition had been met, and set the election for Monday, June 25, 2007.

On June 19, 2007, the UFW filed two letter motions with the Salinas Regional Director arguing that the decertification petition was untimely because 1) there is an existing contract that bars the filing of the petition under Labor Code section 1156.7, and 2) the Employer has not fully complied with a remedial order issued by the Board in *Gallo Vineyards, Inc.* (2004) 30 ALRB No. 2. The UFW requested that the Regional Director dismiss the petition for decertification.

On June 20, 2007 the Salinas Regional Director denied the two motions filed by the UFW seeking dismissal of the petition for decertification. The Regional Director based his denial on a prior Board decision that addressed the contract bar issue (*Phelan & Taylor Produce Co.* (1981) 7 ALRB No. 8), and based on the Region's position that the matter of *Gallo Vineyards, Inc.* (2004) 30 ALRB No. 2 had been fully remedied.

On June 21, 2007, the UFW filed a request with the Board seeking review of the Regional Director's denial of its two motions pursuant to Labor Code section 1142(b). The UFW reiterates the arguments it put forward to the Regional Director in its June 19, 2007 letter motions and requests that the petition for decertification be dismissed, or in the alternative that the ballots in the election be impounded pending resolution of the issues it raises in its request for review.

Discussion

While a Regional Director's decision to dismiss an election petition is reviewable pursuant to section 1142(b) of the Agricultural Labor Relations Act (ALRA

or Act) and Board regulation sections 20300(i)(3) and 20393(a) ¹, there is no provision in either the Board's regulations or case law for review of a Regional Director's decision to direct an election. Rather, such decision is final and nonreviewable. (*Bayou Vista Dairy*, (2006) 32 ALRB No. 6 at page 5, and *Conagra Turkey Company* (1993) 19 ALRB No. 11 at page 2.)

As the Board explained in *Conagra Turkey Company*, the reason for the lack of a provision for review of the Regional Director's decision to proceed with an election is rooted in the express statutory policy in favor of prompt elections. Instead, the proper mechanism for raising the issues upon which a party believes the Regional Director should have dismissed the election petition is the filing of election objections.

This review scheme has long been codified in the Board's regulations. Regulation section 20393(a) sets forth the types of decisions by a Regional Director that are subject to a request for review. The decision to direct an election is not listed. Indeed, Regulation section 20393(b) expressly provides that review of specified decisions, including the decision "to direct an election," shall be by means of filing election objections pursuant to Labor Code section 1156.3(c), and sections 20363, 20365 and 20370 of the Board's regulations.

PLEASE TAKE NOTICE THAT for the reasons set forth above, the UFW's request for review of the Regional Director's decision not to dismiss the

¹ The full text of the Board's Regulations can be found at Cal. Code of Regulations, Title 8, section 20100 et seq.

decertification petition and to go forward with the election in this matter is DENIED.

The UFW's request that, in the alternative, the ballots be impounded also is denied.

By Direction of the Board

Dated: June 22, 2007

Laura Heyck
Acting Executive Secretary