

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

GERAWAN FARMING, INC.,	)	Case No.	2013-RD-003-VIS
	)		(39 ALRB No. 20)
Employer,	)		(42 ALRB No. 1)
	)		
and,	)		
	)	ORDER DIRECTING THE	
	)	OPENING AND COUNTING OF	
	)	BALLOTS	
SILVIA LOPEZ,	)		
	)		
Petitioner,	)		
	)		
and,	)		
	)		
UNITED FARM WORKERS OF	)		
AMERICA,	)	Admin. Order No. 2018-	12
	)		
Certified Bargaining Representative.	)	(September 14, 2018)	
_____	)		

On October 25, 2013, Silvia Lopez (Petitioner) filed a petition to decertify the United Farm Workers of America (UFW) as the certified bargaining representative of the agricultural employees of Gerawan Farming, Inc. (Gerawan). The Agricultural Labor Relations Board (Board) ordered that an election be held and the ballots cast in the election be impounded pursuant to section 20360, subdivision (c) of the Board's regulations pending resolution of any election objections and related unfair labor practice complaints. (*Gerawan Farming, Inc.* (2013) Admin. Order No. 2013-46; Cal. Code Regs., tit. 8, § 20360, subd. (c).) The election was held on November 5, 2013, and the resulting ballots were impounded.

After a consolidated hearing on objections to the election and related unfair labor practice allegations, an administrative law judge (ALJ) determined that Gerawan committed multiple unfair labor practices and engaged in conduct that required setting aside the election and dismissing the decertification petition. On April 15, 2016, the Board issued a decision upholding the ALJ's order setting aside the election and dismissing the decertification petition. (*Gerawan Farming, Inc.* (2016) 42 ALRB No. 1.)

Gerawan sought review of the Board's decision in the Court of Appeal of the State of California, Fifth Appellate District (the Appellate Court). On May 30, 2018, the Appellate Court issued an opinion reversing certain portions of the Board's unfair labor practice findings and vacating the Board's order setting aside the election and dismissing the petition. (*Gerawan Farming, Inc. v. ALRB* (2018) 23 Cal.App.5th 1129.) The Appellate Court remanded the matter to the Board to reconsider its decision in the election case in light of the Appellate Court's opinion. The Appellate Court specifically directed the Board to consider the vote tally in its reconsideration of the case and, accordingly, ordered the Board to "open the ballots and issue a tally . . ." (*Id.* at p. 1240.) After the California Supreme Court denied petitions for review of the Appellate Court's decision filed by the Board and the UFW, on September 13, 2018, the Appellate Court issued its remittitur.

Pursuant to the Appellate Court's May 30, 2018 opinion and September 13, 2018 remittitur, the Board ORDERS the Regional Director of the Visalia Regional Office to open and count the ballots cast in the November 5, 2013 election in Case No. 2013-RD-003-VIS and prepare a tally of ballots in accordance with section 20360, subdivision

(a) of the Board's regulations. (Cal. Code Regs., tit. 8, § 20360, subd (a).) The ballot count shall be commenced as soon as possible, and the Regional Director shall give advance notice to representatives of all parties of the date, time and place at which the ballots will be counted. (Cal. Code Regs., tit. 8, § 20360, subd (a).)

Dated: September 14, 2018

Genevieve A. Shiroma, Chairwoman

Cathryn Rivera-Hernandez, Member

Isadore Hall, III, Member