

ELECTION APPEALS MASTER

IN RE: FRED ZUCKERMAN

Protestor.

10 Elec. App. 10 (KC)

ORDER

This matter is an appeal from the Election Supervisor's decision 2010 EAD 62 issued December 28, 2010. The appeal was submitted by Fred Zuckerman.

A hearing was held before me on January 10, 2011. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq., for the Election Supervisor; David J. Hoffa, Esq. on behalf of the Hoffa-Hall Campaign, Scott Soldon, Esq. on behalf of Fred Zuckerman and Robert Baptiste, Esq. on behalf of Teamsters Local 299.

The Election Supervisor concluded in this case that John Hasley, a former member of Local 299, a photographer hired from time to time by the IBT, and a supporter of the Hoffa-Hall 2011 Campaign, had conducted improper surveillance of a fundraiser at the Crown Plaza Hotel arranged by the Gregare-Zuckerman 2011 Campaign. The Election Supervisor also found that Roy Gross, a business agent for Local 299 assisted and participated in the improper surveillance. Such conduct has of course long been condemned by the Election Rules since the entry of the Consent Decree more than twenty years ago. Such electoral behavior is an implicit form of voter intimidation which cannot and will not be tolerated under the Rules.

The record discloses a vigorous investigation of Kevin Moore, principal officer of Local 299, Local 299, and the Hoffa-Hall 2011 Campaign and their possible involvement in the improper surveillance. The Election Supervisor "found no evidence to link the surveillance

activity to Moore, the local union or the [Hoffa-Hall 2011] campaign.” Appeals statement of Jeffrey J. Ellison for the Election Supervisor, dated January 4, 2011 at 1.

Counsel for the protestor Zuckerman and candidate Gegare seek to have the matter remanded to the Election Supervisor for further investigation of possible involvement in the improper surveillance of Moore, Local 299 and the Hoffa-Hall 2011 Campaign. When asked at the hearing what specific and additional investigative steps should be required, counsel urged that Hasley and Goss should be subjected to under oath interviews.

Such a course is neither appropriate nor useful given the record here. This is not a case of dueling witnesses giving adverse evidence. Hasley and Gross both insist that no surveillance occurred. There is further no evidence that photographs were actually taken, and certainly no evidence that such photographs, or indeed any rendition of a non-photograph observation were given to or examined by Moore, Local 299 or the Hoffa- Hall 2011 Campaign.

To impose stenographers and oaths on conventional interviews based upon sheer speculation is neither wise nor warranted. The Election Supervisor of course retains the discretion to utilize such methods where he deems it conducive to investigative objectives.

The Election Supervisor’s decision is, accordingly, affirmed in all respects.

SO ORDERED:

s/Kenneth Conboy
Kenneth Conboy
Election Appeals Master

Dated: January 18, 2011