

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: RICHARD GODIN, JR.,)
)
Protestor.)
)
_____)

Protest Decision 2016 ESD 127
Issued: February 29, 2016
OES Case No. P-099-011216-CA

Richard Godin, Jr., member of Local Union 938, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2015-2016 IBT International Union Delegate and Officer Election (“Rules”). The protest alleged that Joseph Jephson, part-time business agent of the local union, intimidated Godin, Jr. before and after the nominations meeting for Local Union 938’s delegates and alternate delegates election.

Election Supervisor representative Jack Sullens investigated this protest.

Findings of Fact and Analysis

Local Union 938 held the nominations meeting for its delegates and alternate delegates election on January 9, 2016. Godin, Jr. was nominated for delegate as an unaffiliated candidate. His intention to be nominated was widely known in advance of the meeting. Godin, Jr. told our investigator that Jephson, his co-worker, approached him in the parking lot before the meeting and told him to “stay the fuck out of this” – referring to the election – and that if Godin, Jr. did not, he would regret it.

Richard Godin, Sr., also a local union member, witnessed Jephson’s aggressive behavior and statement. In addition, Vic Ohannessian corroborated the incident as well.

Godin, Jr. told our investigator that inside, immediately after the nominations meeting, Jephson pushed him and said he would “bury [him] alive.” José Rodrigues witnessed the aggressive behavior and tone of Jephson and stepped between the two, setting them off in different directions. Rodrigues told our investigator that Jephson was acting like “a hothead.” Ohannessian saw Jephson leaning in on Godin, Jr. and blurting words at him. Ohannessian could not understand what Jephson said but intervened and walked Jephson outside.

Jephson denied threatening Godin, Jr. He confirmed that he and Godin, Jr. are co-workers and they “do not necessarily get along.”

We credit Godin, Jr., Godin, Sr., Ohannessian, and Rodrigues, finding that Jephson said the things and behaved in the manner these witnesses attributed to him. We do not credit Jephson’s denial.

Article VII, Section 12(g) prohibits threats for activity protected by the *Rules*. The *Rules* also recognize that loud and sensational language is part of the election process, and the *Rules* do not bar that sort of zealous campaigning. *Jorgensen*, 2000 EAD 72 (December 26, 2000); *Rodriguez*, 2000 EAD 45 (November 3, 2000); *Yocum*, 2000 EAD 18 (September 1, 2000) (loud, rude and obnoxious behavior of union steward as member attempted to have other members sign petition not unlawful); *Wasilewski*, 2000 EAD 14 (August 14, 2000) (words exchanged between two sides in the

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context of petitions being signed); *Zuckerman*, 2005 ESD 38 (December 15, 2005) (no violation where campaigner's conduct was "loud, rude and obnoxious" but stopped short of physical violence).

To find an improper threat, activity must constitute a palpable threat of imminent harm. *Ramos*, 2006 ESD 65 (February 3, 2006); *Galvan*, 2011 ESD 130 (February 21, 2011). However, a threshold must be crossed before threats or violence will be found to violate the *Rules*. *Teller*, P1086 (December 27, 1991) (finding violation where a local trustee grabbed a member by the arm, tapped a finger into his chest, grabbed him by the jacket collar and pushed him against the wall); *Stefanski*, P282 (January 22, 1996), *aff'd*, 96 EAM 94 (February 21, 1996) (finding violation where a member grabbed another's arms in a menacing manner and ordered him to leave the facility where he was campaigning); *Smith*, 91 EAM 51 (January 29, 1991) (finding violation where a member was struck on the back of the head for expressing unpopular political beliefs); *Rogowski*, P859 (August 13, 1996) (violation to pull the protestor's shirt collar and push him from behind with his elbow in front of other members.); *Leedham Slate*, 2006 ESD 319 (July 9, 2006), *aff'd*, 06 EAM 57 (July 21, 2006) (punching of a member who insulted candidate for International office while singing karaoke violated the *Rules*); *Berg*, 2006 ESD 397 (December 6, 2006), *aff'd*, 06 EAM 80 (January 8, 2007) (while mere bumping "belly to belly" may be excusable, punching candidate because of candidacy violated the *Rules*); *Pope*, 2011 ESD 309 (August 5, 2011) (knocking member down because of campaign emblem on shirt violated *Rules*); *Deszcz & Esquivel*, 2011 ESD 310 (August 12, 2011) (physical attack of members because of their political beliefs violates the *Rules*). "Violence ... has absolutely no place in the conduct of fair, honest and open elections, pursuant to the Election Rules." *Smith, supra*.

We find that Jephson's behavior toward Godin, Jr. was confrontational, loud, rude, and obnoxious. However, we find it did not cross the line to the palpable threat of imminent harm the *Rules* prohibit. Further, it did not dissuade Godin, Jr. from pursuing and securing nomination for delegate. Accordingly, we find that Jephson's conduct did not violate the *Rules*. *Duncan*, 2006 ESD 247 (May 16, 2006).

For these reasons, we DENY this protest.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within two (2) working days of receipt of this decision. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Supervisor in any such appeal. Requests for a hearing shall be made in writing, shall specify the basis for the appeal, and shall be served upon:

Kathleen A. Roberts
Election Appeals Master
JAMS
620 Eighth Avenue, 34th floor
New York, NY 10018
kroberts@jamsadr.com

Copies of the request for hearing must be served upon the parties, as well as upon the Election Supervisor for the International Brotherhood of Teamsters, 1050 17th Street, N.W., Suite 375,

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Washington, D.C. 20036, all within the time prescribed above. A copy of the protest must accompany the request for hearing.

Richard W. Mark
Election Supervisor

cc: Kathleen A. Roberts
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