

**OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

IN RE: DAVE CINTRON &)	Protest Decision 2016 ESD 310
JANET GENOVESE,)	Issued: October 26, 2016
)	OES Case Nos. P-372-100516-AT
Protestors.)	& P-383-100716-AT
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Dave Cintron, member of Local Union 804, 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 Janet Genovese interfered with his right to campaign in a UPS parking lot in Baltimore, MD.

Janet Genovese, member and elected trustee of Local Union 355 and shop steward at the UPS Vero Road facility in Baltimore, filed a pre-election protest alleging that two men violated the *Rules* by campaigning on employer property.

Election Supervisor representative Chris Mrak investigated these protests. They were consolidated for decision.

Findings of Fact and Analysis

Protestor Cintron and one other person campaigned in support of Teamsters United at the UPS-Vero Road facility in Baltimore, MD on October 4, 2016. The Vero Road facility is a large, roughly rectangular warehouse and service center with loading docks on three sides, situated just south of Joh Avenue and between Vero Road and the I-95 expressway in Arbutus, Baltimore County, MD. The facility is accessed through two entrances off Vero Road, a street a half mile in length that runs southwesterly from Joh. The employer provides a parking lot of nearly 100 spaces for its employees through the southerly entrance off Vero Road. Employees enter the facility from the parking lot by passing a two-story, flat-roofed guard station at the northern end of the employee parking lot. The guard station is inside a chain-link fence six feet high that is topped with three strands of barbed wire. Employees pass through a gate in that fence and traverse a sidewalk around the station to a painted walkway that leads to the warehouse. The approach to the gate from the employee parking lot is immediately adjacent to marked parking spaces and is outlined in yellow paint on the asphalt. A concrete post, also painted yellow, is positioned in the walkway to prevent the space for the pedestrian entrance from being used for parking.

Cintron told our investigator that he and another Teamsters United supporter campaigned in the employee parking lot on Tuesday afternoon and evening, October 4, 2016. He said they were wearing Zuckerman shirts and had a large sign. At about 6:00 p.m., a woman came out of the building and told Cintron and his colleague that they were on UPS property, did not belong there, and had to leave. Cintron asked who she was, a supervisor? He pulled out the OES Parking Lot Advisory to show her they had the right to be there, but she walked to the guard shack and then back into the building.

Shortly thereafter, Cintron said a UPS loss prevention manager (LPM) came out of the building and approached the campaigners. Cintron showed the man the OES advisory. He said “OK” and allowed them to stay. Cintron asked the man who the woman was who had told them to leave; “Janet” was the

October 26, 2016

reply.¹ The LPM left, returning a while later to check if everything was ok. Cintron and his colleague campaigned without incident until about 8:00 or 8:30 p.m. before leaving.

Genovese told our investigator she reported to work at the facility at 5:00 p.m. on October 4, where she also serves as shop steward and safety representative. That day, she said she was required by company protocol to escort a fired employee out of the facility to the guard shack. While doing this, she saw two men handing out election literature. According to her, they were located on a walkway between where the cars were parked and the guard shack. One was leaning on the fence and the other was near a yellow post in the walkway. She told them they could not be in that area. They “hollered” something at her but she went back into the building and returned to her work station.

Genovese said she told the guard that the campaigners could not be “on company property” but denied reporting anything to the loss prevention manager. She stated the walkway has lines painted on it to prevent parking there and, in her opinion, was not part of the parking lot. Under her view of the *Rules*, a space where cars are physically barred from parking by a cement post is not in a “parking lot” within the meaning of the *Rules*, even though it is next to parked vehicles and within the area demarked by fencing and a streetside grassy area that outlines the parking area.

We do not ascribe to such an overly strict definition of “parking lot.” Instead, we find that the campaign activity documented here occurred within the employee parking lot and thus was protected by Article VII, Section 12(e) of the *Rules*. We further find that Cintron and his fellow campaigner were able to campaign without interference from Genovese or the employer.

Accordingly, we DENY both protests.

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, 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
2016 ESD 310

¹ The woman who spoke to the campaigners was Janet Genovese, the other protestor involved here.

October 26, 2016

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