

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: JEFF NORRIS and)	Protest Decision 2021 ESD 177
MICHAEL JOHNSON,)	Issued: November 7, 2021
Protestors.)	OES Case No. P-184-101221-SO
_____)	

We decided this protest in *Norris & Johnson*, 2021 ESD 174 (November 4, 2021). We take this opportunity to revise and reissue this decision *sua sponte*, concluding that the initial decision omitted consideration of a fact contested by the protestors. The instant decision replaces the one previously issued.

Jeff Norris and Michael Johnson, members of Local Union 657, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2020-2021 IBT International Union Delegate and Officer Election (“Rules”). The protest alleged that Frank Perkins, principal officer of Local Union 657, violated the Rules by permitting a sergeant-at-arms to distribute campaign material at a local union membership meeting.

Election Supervisor representative Dolores Hall investigated this protest.

Findings of Fact and Analysis

Article VII, Section 5(a)(3) states that, if a local union will permit campaigning at any of its meetings, it “shall notify all candidates ... of the opportunity” to do so. Protestor Norris alleged that, at the general membership meeting of Local Union 657 held October 10, 2021, principal officer Frank Perkins permitted sergeant-at-arms Victor Casillas to distribute campaign material, without providing advance notice to all candidates that such activity would be permitted.

Investigation showed that Perkins appointed Casillas, a new union steward, to serve as sergeant-at-arms for that evening’s meeting. He instructed Casillas to distribute to members as they checked in for the meeting a get out the vote (GOTV) flyer that was prepared by the IBT and approved by the Election Supervisor. After the meeting convened with the pledge of allegiance, Perkins saw Casillas stand up at the back of the room and begin handing out flyers, which Perkins assumed were the GOTV flyer. John Palmer, a member of Local Union 657 and candidate for IBT vice president – South region on the O'Brien-Zuckerman 2021 slate, was in the back row. When the flyer Casillas was distributing reached him, he recognized it as campaign material and called out loudly to Perkins at the podium that Casillas could not distribute campaign material in the meeting. When Perkins understood that Casillas was distributing partisan campaign flyers instead of the GOTV flyer, he admonished Casillas from the podium that distribution of campaign flyers inside the union hall was prohibited, and he directed Casillas to retrieve all the flyers he had distributed.

Casillas told our investigator that he was a new steward and unaware of the election rules concerning distribution of campaign flyers in union meetings. He said at work he and his co-workers had discussed which candidates to support, and he decided to prepare a flyer to assist other members with their electoral choices. The flyer listed all candidates that appear on the ballot sent

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to members in the South region. Next to candidates Casillas recommended was a ●. Next to candidates Casillas did not recommend was XX. The flyer gave no reason or argument for any of the recommendations.

Multiple witnesses told our investigator that the distribution was confined to the last row of members in the meeting and that all but two members receiving a flyer returned it. One who retained his told our investigator that he had placed it with other papers he had in the meeting and did not realize he still had it until after the meeting concluded and he left the hall. He subsequently destroyed it without making copies or distributing it further. The other member who retained the flyer, protestor Johnson, refused to cooperate with the sergeant-at-arms' effort to retrieve the flyers he distributed. Johnson said he had the flyer in his hand and the sergeant-at-arms motioned for him to pass it back to him. Johnson said he "just looked at the guy and stuck the flyer" in his folder, refusing to return it. Johnson said he subsequently took a photo of the flyer and sent it by text message to protestor Norris on October 12, 2021, 2 days after the meeting.

On these facts, we find no violation of the Rules. Although Casillas held apparent union authority as sergeant-at-arms for the meeting, the union, in the person of Perkins, did not permit campaigning at the meeting. When campaigning in the form of distributing a campaign flyer occurred, and that activity was called to Perkins' attention, Perkins promptly directed it to stop and further directed the sergeant-at-arms to retrieve the campaign material. The facts that two flyers were not retrieved, one because a member inadvertently retained it, the other because the protestor refused to surrender it, does not alter our conclusion that Perkins did not grant permission for or otherwise condone campaigning during the union meeting.

For these reasons, we DENY the 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. Any party requesting a hearing must comply with the requirements of Article XIII, Section 2(i). All parties are reminded that, absent extraordinary circumstances, no party may rely in any such appeal upon evidence that was not presented to the Office of the Election Supervisor. Requests for a hearing shall be made in writing, shall specify the basis for the appeal, and shall be served upon:

Barbara Jones
Election Appeals Master
IBTappealsmaster@bracewell.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, all within the time prescribed above. Service may be accomplished by email, using the "reply all" function on the email by which the party received this decision. A copy of the protest must accompany the request for hearing.

Richard W. Mark
Election Supervisor

cc: Barbara Jones
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