

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: ELIGIBILITY OF)	Protest Decision 2021 ESD 40
RONALD CALHOUN)	Issued: January 12, 2021
)	OES Case No. E-050-011121-SO
Local Union 512)	
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Anthony Padgett, member of Local Union 512, 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 Ronald Calhoun is ineligible for nomination as delegate from Local Union 512.

Election Supervisor representative Jeffrey Ellison investigated this protest.

Findings of Fact and Analysis

Article VI, Section 1(a) of the *Rules* provides that “to be eligible to run for any Convention delegate, alternate delegate or International Officer position, one must: (1) be a member in continuous good standing of the Local Union, with one’s dues paid to the Local Union for a period of twenty-four (24) consecutive months prior to the month of nomination for said position with no interruptions in active membership due to suspensions, expulsions, withdrawals, transfers or failure to pay fines or assessments; (2) be employed at the craft within the jurisdiction of the Local Union for a period of twenty-four (24) consecutive months prior to the month of nomination; and (3) be eligible to hold office if elected.”

The nominations meeting for Local Union 512’s delegates and alternate delegates election was held January 9, 2021. Therefore, the 24-month period during which candidates must be in continuous good standing in order to be eligible for nomination ran from January 2019 through December 2020.

To assess whether Calhoun maintained continuous good standing during the eligibility period, we reviewed TITAN records for dues payments and interviewed Calhoun.

Calhoun’s TITAN record showed that he is employed by UPS and paid his dues timely and in full by check-off authorization for the months January through August 2019, the first eight months of the eligibility period. Calhoun told our investigator that he was off work for a medical reason beginning mid-September 2019, returning to work in late-November 2019. During that period, he received insurance benefits in the form of short-term disability compensation from UPS’s insurance provider. Upon return to work, Calhoun paid his dues timely through check-off for the balance of the eligibility period.

Accordingly, we focus our eligibility inquiry on the months of September, October, and November 2019. In doing so, we apply the “check-off rule” because Calhoun had authorized his employer to deduct – or check off – dues from the compensation it paid him and remit those dues to the local union. Under this rule, a member retains his good standing even if his dues were remitted late or not at all by the employer, provided he had signed a check-off authorization and

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had sufficient earnings or paid leave in the month from which dues could have been deducted. IBT Constitution, Article X, Section 5(c); *Eligibility of John Gerow, et al.*, 2006 ESD 121 (March 2, 2006); *Eligibility of Thiel*, 2010 ESD 16 (July 26, 2010), *appeal withdrawn*, 10 EAM 4 (August 6, 2010); *Eligibility of Montes*, 2011 ESD 114 (February 16, 2011). Investigation showed that Calhoun had sufficient earnings in September 2019, before his medical leave, and sufficient earnings in November, after he returned to work, from which dues could have been deducted. Those months therefore did not constitute an interruption of his continuous good standing.

However, Calhoun received no compensation from UPS for work performed or vacation or sick leave taken in October 2019. For this reason, he could not rely on the check-off rule and was required instead to make direct payment of his dues to the local union for that month, doing so no later than the last business day of the month. When he did not do so, he was not in good standing for October 2019, and that month interrupted the 24 months of continuous good standing necessary to be eligible for nomination.

For this reason, we hold that Calhoun is INELIGIBLE for nomination and accordingly GRANT the protest.

We note that the dues record shows that the local union placed Calhoun on honorable withdrawal status when it learned in September 2019 of his medical circumstances, taking him off that status when it learned in December 2019 he had returned to work. We did not consider withdrawal status in evaluating Calhoun's eligibility here, because Calhoun denies that he requested withdrawal or even knew he had been placed in that status. The IBT constitution, Article XVIII, Section 6(a), does not permit a local union to place a member on honorable withdrawal unless he/she requests it, except where the member is off work for more than six months, which was not the case here. It comes to our attention frequently that local unions, contrary to their authority under the constitution, place members on honorable withdrawal for unemployment or medical leaves that are expected to last less than six months and that members frequently are unaware they have been placed on withdrawal. Withdrawal status suspends the obligation to pay dues, and local unions take this action apparently to prevent members from incurring a dues arrearage at a time they are not working or have reduced income because of medical conditions. Nonetheless, where a member seeks to maintain his/her good standing by paying monthly dues during a period of unemployment or disability, withdrawal status noted on the dues record will not interrupt continuous good standing unless the period of unemployment exceeds six months. *Cf.*, *Eligibility of Winters*, 2020 ESD 25 (October 5, 2020). We caution that local unions should advise members of the benefits and consequences of withdrawal status in those circumstances and obtain their consent before placing them in that status.

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

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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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DISTRIBUTION LIST (BY EMAIL UNLESS NOTED):

Bradley T. Raymond, General Counsel
International Brotherhood of Teamsters
braymond@teamster.org

Edward Gleason
egleason@gleasonlawdc.com

Patrick Szymanski
szymanski@me.com

Will Bloom
wbloom@dsgchicago.com

Tom Geoghegan
tgeoghegan@dsgchicago.com

Rob Colone
rmcolone@hotmail.com

Barbara Harvey
blmharvey@sbcglobal.net

Kevin Moore
Mooregp2021@gmail.com

F.C. "Chris" Silvera
fitzverity@aol.com

Fred Zuckerman
fredzuckerman@aol.com

Ken Paff
Teamsters for a Democratic Union
ken@tdu.org

Rodney Calhoun
Calhoun.rodney@yahoo.com

Anthony Padgett
Tpad18@gmail.com

Teamsters Local Union 512
Jim Shurling
jqsurely@aol.com

Dolores Hall
dhall@ibtvote.org

Jeffrey Ellison
EllisonEsq@gmail.com