

ELECTION APPEALS MASTER

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IN RE: LOURDES GARCIA,

Protestor,

2015-2016 EAM 14 (KAR)  
DECISION RE 2016 ESD 164

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Protest Decision 2016 ESD 164 (ESD 164), which addresses a protest filed by Lourdes Garcia, a member, recording secretary, and delegate candidate on the Middleton slate in Local Union 572, was issued on April 8, 2016 (OES Case No. P-177-021716-FW). The protest alleged that Frank Halstead and other supporters of the Teamsters United 572 slate violated the *Rules* by misrepresenting to employer First Student – San Fernando that they were employees of Local Union 572 in order to gain access for campaign purposes to areas of the employer’s facilities that otherwise would be limited to employees and union representatives.

Decision of the Election Supervisor

The factual findings and conclusions of the Election Supervisor pertaining to this protest are set forth in 2015-2016 EAM 16 (ESD 166). In short, in the course of a conflict regarding the right of the delegate candidate Frank Halstead and his supporters to campaign in the parking lot of the First Student – San Fernando facility, Mr. Halstead and his supporters entered the offices of First Student where they presented their rights and concerns to a First Student manager.

Ms. Garcia alleged that Halstead and the other campaigners gained access to the building on First Student’s property by misrepresenting themselves as employees of Local Union 572. Ms. Garcia claimed that this alleged misrepresentation permitted the campaigners to campaign inside the building, when the *Rules* permit them parking lot access only.

The Election Supervisor found that “Garcia presented no evidence to support her allegations. Garcia was not present at the facility, had no personal knowledge of events, and did not speak with any representative of First Student to obtain even hearsay information to substantiate the allegations.” The Election Supervisor also noted that Ms. Garcia “did not identify any witness who claimed that Halstead, [or his supporters] said they were local union employees, and that Halstead denied stating that he was a local union employee, as did the other campaigners.

According to the Election Supervisor, “[n]o manager or employee of First Student stated that Halstead or the others claimed they were local union employees. Moreover, no evidence was presented, and we found none, that the campaigners engaged in any campaign activity inside the building. Finally, the purpose the campaigners had for entering the building was not to campaign but to seek to reverse the employer’s directive that they not be in the parking lot, where the *Rules* permitted them to be.”

Appeal by Ms. Garcia

In a letter to the Election Appeals Master dated April 11, 2016, counsel for Local 572 reiterates Ms. Garcia's statements to the OES investigators, and attaches a copy of an email in which Ms. Garcia provided contact information for a First Student branch manager "who had firsthand knowledge."

Hearing on Appeal

A telephonic hearing on Ms. Garcia's appeal was held on April 15, 2016, along with the appeals of ESD 165 and 166. This hearing was attended by Jeffrey Ellison, Esq., Michael Miller, Chris Mrak and Deborah Schaaf (Office of the Election Supervisor); Elizabeth Rosenfeld, Esq., Joseph J. Kaplon, Esq., Lourdes M. Garcia, Esq., David Hoffa, Esq. Brad Raymond, Esq., Christy Bailey, Julian Gonzalez, Esq., and Barbara Harvey, Esq. During the course of oral argument, Ms. Garcia reiterated the allegations set forth in her appeal.

Decision of the Election Appeals Master

The protest is denied and the decision of the Election Supervisor is affirmed for substantially the reasons set forth in ESD 164. There was no abuse of discretion by the Election Supervisor in declining to accept hearsay evidence from Ms. Garcia, particularly in light of the firsthand denials by Mr. Halstead and his supporters regarding their purpose in entering the Frist Student premises, and the complete absence of any evidence of campaign activity by Mr. Halstead and his supporters.

SO ORDERED.

/s/ \_\_\_\_\_  
KATHLEEN A. ROBERTS  
ELECTION APPEALS MASTER

April 21, 2016