



OFFICE OF THE ELECTION OFFICER  
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Michael H Holland  
Election Officer

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February 18, 1991

**VIA UPS OVERNIGHT**

John W. Hill  
201 Marlin Road  
Whitehouse, TN 37188

Luther Watson  
Secretary-Treasurer  
IBT Local Union 480  
643 Spence Lane  
Nashville, TN 37224-0230

David J Bowden  
Rt #1  
Box 3112  
Patton Branch Rd.  
Goodlettsville, TN 37072

Re: Election Office Case No. P-479-LU480-SEC

Gentlemen:

Complainant John W Hill filed a pre-election protest pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") Complainant alleges that David J Bowden should be disqualified from seeking a 1991 IBT International Convention delegate from Local 480 on the grounds that Mr Bowden had been criminally convicted of violating a narcotics law. Attached to the protest is a certified copy of what is entitled the Judgment of the Criminal Court for Sumner County, Tennessee which recites that David Bowden pled guilty to the offense of "simple possession of Schedule 6 drugs in violation of T C.A. 40-21-19 " The judgment also states "it is further ordered that the judgment not be entered in this cause but this plea be entered under the herein named code section It is further ordered that at the end of one year from August 15, 1989 the defendant's record shall be expunged with respect to this charge in accordance with T C A 40-21-19 upon proper petition to [that district] Court."

The investigation reveals that an order was entered in the Criminal Court for Sumner County, Tennessee October 17, 1990 T C A. 40-21-19 dismissing the case and ordering that all public records of the arrest and prosecution be expunged. Investigation further reveals that the offense to which Mr Bowden pled guilty was for the possession of marijuana

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Section 504 LMRDA prohibits from office any person who has been convicted of . . . violation of narcotics laws . . . .” Thus, it must be determined whether there has been a violation of the narcotics laws, and if so, whether a conviction for that violation occurred. Under federal law, marijuana is not defined as a narcotic. See Chapter 21, USC § 801 and seek specifically 802 (16) and (17). Marijuana is also not a narcotic as defined under Tennessee law. See Tennessee Statutes 39-17 1402 (15) and (16). Thus, Mr Bowden was never convicted of a violation of narcotics law, even if a conditional judgment and later expungement of the record were considered to be a conviction. Therefore, the protest is DENIED

If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Officer in any such appeal. Requests for a hearing shall be made in writing, and shall be served on Independent Administrator Frederick B Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, New Jersey 07102-5311, Facsimile (201) 622-6693. Copies of the request for hearing must be served on the parties listed above, as well as upon the Election Officer, IBT, 25 Louisiana Avenue, N.W., Washington, D. C. 20001, Facsimile (202) 624-8792. A copy of the protest must accompany the request for a hearing.

Very truly yours,



Michael H Holland

MHH/mca

cc: Frederick B Lacey, Independent Administrator  
Donald H Williams, Regional Coordinator  
Paul Alan Levy, Esq