



OFFICE OF THE ELECTION OFFICER
INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington DC 20001
(202) 624 8778
1 800 828 6496
Fax (202) 624 8792

Michael H Holland
Election Officer

Chicago Office
% Cornfield and Feldm
343 South Dearborn Str
Chicago IL 60604
(312) 922 2800

March 22, 1991

VIA UPS OVERNIGHT

Harlan Reed
2766 South King Street
Honolulu, Hawaii 96826

Artesha Crickett K'Olmos
c/o Local 996
615 Piikoi Street
Honolulu, Hawaii 96814

Harold De Costa
904 Kohou Street
Suite 102
Honolulu, Hawaii 96819

Re Election Office Case No P-669-LU996-RMT

Gentlemen

A pre-election protest has been timely filed pursuant to Article XI, Section 1 of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In his protest, Harlan Reed, a supporter of delegate candidate Harold De Costa alleges that he has been intimidated and harassed by Artesha K'Olmos, a supporter of delegate candidate Anthony Rutledge, contrary to the *Rules*

The investigation discloses the following facts At around 3 30 a m on March 14, 1991, K'Olmos and other IBT members who support the Chambrella-Rutledge Unity Team of delegate and alternate delegate candidates were campaigning at the Middle Street Division Headquarters of MTL Corporation At around 5 00 a m , supporters of Harold De Costa, including Reed, arrived to commence campaigning in the same location An exchange of profanity ensued between the two groups of campaign activists K'Olmos then called the police, who she claims had asked her to phone them if she saw Mr Reed so they could question him about charges filed by K'Olmos against Reed The police arrived and questioned Reed, asking him if he was aware that K'Olmos had applied for a Temporary Restraining Order against him Reed replied that he had no such knowledge Subsequently, the police left, and campaigning continued by all parties, including Reed

As noted by the Election Officer in Election Office Case No P-610-LU996-RMT, the delegate election in this Local is being held against the background of a very hostile internal Local Union officer election between the same candidates, De Costa and

Harlan Reed
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Rutledge, who are now campaigning against one another for delegate The goal of open, fair elections is not served by continuing hostilities among the parties The Election Officer directs all parties to conduct themselves in a manner that will facilitate peaceful campaigning in this election

While Mr Reed alleges that his campaign was negatively impacted by the appearance of the police in this case, there is no specific evidence of such impact The protest is **DENIED** All parties are admonished to campaign in a spirit of tolerance for differences and promotion of debate ¹

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
Bruce Boyens, Regional Coordinator

¹The Election Officer notes that he directed in Election Office Case No P-610-LU996-RMT that a notice be posted by all factions delineating members' campaign rights

IN RE ARTESHA CRICKETT K'OLMOS, and HAROLD DE COSTA, IBT LOCAL UNION NO. 996, and HARLAND REED,	: : : : : : : : : : : : : : : : :	91 - Elec App. - 119 (SA) DECISION OF THE INDEPENDENT ADMINISTRATOR
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This matter arises out of an appeal from two decisions of the Election Officer, both dated March 22, 1991. The first decision was issued in Case No. P-610-LU996-RMT ("P-610") and the second was issued in Case No. P-669-LU996-RMT ("P-669") A hearing was held before me on April 1, 1991, at which John Sullivan, on behalf of the Election Officer was heard. Pauline Thompson audited the hearing on behalf of Local 996. In addition, I received written submissions from the Local and Ms. K'Olmos. Still further, in Mr. Reed's initial request for a hearing in Case No. P-669 dated March 26, 1991, he set forth his position. Statements of witnesses were also "faxed" to my office by Harold DeCosta, President of Local 996

The first protest (P-610) concerns Ms. K'Olmos' good-standing status At issue is Ms. K'Olmos' right to participate in the delegate and International Officer elections to be conducted at Local 996. Ms. K'Olmos is not a candidate.

Pursuant to the IBT Constitution and the Rules for the IBT International Union Delegate and Officer Election (the "Election Rules"), a member's good standing can be interrupted by periods of unemployment at the "craft." Article XVIII, Section 7(c) of the IBT Constitution provides as follows

Any member of a Local Union refusing full-time employment when offered or leaving employment within the jurisdiction or going to work at another craft or occupation outside its jurisdiction on other than a temporary or part-time basis shall be given an honorable withdrawal card and cannot remain a member.

Ms K'Olmos held a staff position at Local Union 996 for approximately two months in 1990 and was a member of the Local during that short period Ms K'Olmos voluntarily left her employment in December of 1990 In her March 31, 1991, submission to me, Ms. K'Olmos explains that she left her employment because she "became disenchanted with Mr. DeCosta's ability to lead, and felt [she] could not morally continue to work under his leadership." Apparently, Ms K'Olmos' decision to quit her job is rooted in a hotly contested race for Local Union President between Anthony Rutledge, the former President of the Local, and Mr DeCosta, the current President That election took place in October 1990. The U S. Department of Labor is currently investigating allegations of election misconduct arising out of the October election.

Ms. K'Olmos is currently employed by a non-IBT Local. She continues to search for employment within the jurisdiction of Local 996 and currently has applications pending for such employment

Furthermore, the Election Officer's investigation reveals that Ms. K'Olmos would be willing to return to her former position if Mr DeCosta was no longer President of Local 996. In short, Ms K'Olmos claims that her position with the non-IBT Local is temporary pending her obtaining a regular position within the jurisdiction of Local 996.

The Election Officer found Ms. K'Olmos to be in good standing based upon two factors. First, it was determined that Ms. K'Olmos' unemployment is temporary. Second, it was found that her unemployment has lasted less than six months and, thus, she cannot be issued an honorable withdrawal card pursuant to Article XVIII, Section 6(a) of the IBT Constitution.¹

Article XVIII, Section 6(c) of the IBT Constitution clearly provides, however, that a member who "refus[es] full-time employment when offered or leave[s] employment within the jurisdiction" of the Local "shall be given an honorable withdrawal card and can not remain a member." (Emphasis supplied) In short, the IBT Constitution does not protect those who quit their jobs regardless of whether or not they work outside of the jurisdiction of the Local on a temporary basis. Moreover, Ms. K'Olmos is

¹ The pertinent provision of Article XVIII, Section 6(a) provides as follows:

When a member becomes unemployed in the jurisdiction of the Local Union, he shall be issued an honorable withdrawal card upon his request. If no such request is made, an honorable withdrawal card must be issued six (6) months after the month in which the member first becomes unemployed, if he is still unemployed at that time.

refusing work with the Local based upon the presence of Mr DeCosta as President

In the past, the Independent Administrator has affirmed the Election Officer's protection of the good standing status of members who were working outside of the craft and outside the jurisdiction of the Local on a temporary or part-time basis. In each of those cases, however, the member was either fired, laid off, or not referred any work by the Local. See In Re: Camenson, 91 - Elec App. - 114 (SA) (April 1, 1991); In Re: Stone, Decision of the Independent Administrator on Request For Reconsideration, 91 - Elec App. - 38 (SA) (February 1, 1991); and In Re: Local 200 and Fugger, 90 - Elec. App. - 25 (SA) (December 27, 1990.) Here, however, the Local could properly issue Ms. K'Olmos a withdrawal card pursuant to Article XVIII, Section 6(c) given that she has "refused full-time employment" and has left "employment under the jurisdiction of the Local." In fact, that section would seem to compel the Local to issue a withdrawal card. The Local, however, has not issued Ms. K'Olmos such a card. Thus, the Local cannot now be heard to complain that Ms. K'Olmos is not in good standing because of her employment elsewhere.

Accordingly, the Election Officer's ruling regarding Ms. K'Olmos' good standing is affirmed for the reasons expressed herein.

The second portion of Ms. K'Olmos' protest (In Case No. P-610) regards allegations that she was threatened and sexually harassed

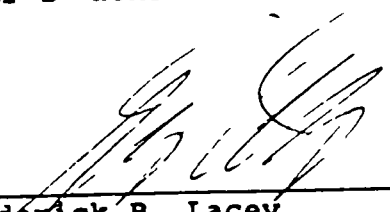
by Local 996's business agent, Mr. Reed. Ms. K'Olmos alleges that Mr. Reed's actions were prompted by her election related activities. In fact, following a particularly troublesome incident, Ms. K'Olmos filed charges with the Honolulu Police and the National Labor Relations Board, and applied for a court restraining order against Mr. Reed. During the incident in question, Mr. Reed approached Ms. K'Olmos while she was engaged in campaign activity and accused her of having sex with another driver to induce him into supporting Mr. DeCosta. Mr. Reed also used foul and vulgar language suggesting that Ms. K'Olmos had sexual relations with him.

The Election Officer concluded in his Summary that "there was no evidence to establish that Mr. Reed engaged in the conduct complained of with the acquiescence or even the knowledge of the officers of the Local." The Election Officer in his Summary, however, expressed particular concern with "the nature of Mr. Reed's behavior" and "the hostile character of the campaign being waged by the long-standing rivals within Local 996." To force compliance with the Election Rules, the Election Officer directed that the heads of both factions -- Harold DeCosta and Anthony Rutledge -- post a notice affirming the rights of IBT members to participate in campaign activities without interference or intimidation.

I affirm the Election Officer's ruling in this regard.

Lastly, we must address the cross-protest filed by Mr. Reed in Case No P-669. Mr. Reed alleged that Ms. K'Olmos attempted to engage him in hostilities and called the police to embarrass him while he was campaigning on March 14, 1991. A review of the Election Officer's decision and his accompanying Summary reveals that Mr Reed's protest was motivated more by political concerns rather than concerns for a fair, honest and open delegate and International Officer election. Simply stated, the Election Rules were not implicated at all in Mr. Reed's protest.

Accordingly, the Election Officer's denial of Mr. Reed's protest is affirmed.



Frederick B. Lacey
Independent Administrator
By: Stuart Alderoty, Designee

Dated: April 4, 1991