

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Washington, DC 20001

Michael H. Holland
Election Officer

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September 10, 1991

VIA UPS OVERNIGHT

Bill Wright
6909 Kyles Station
Middletown, OH 45044

Jr. Mann
3712 North Berkeley Circle
Cincinnati, OH 45236

Harold D. Leu
President
IBT Local Union 20
435 South Hawley Street
Toledo, OH 43609

William Scroggins
Personnel Manager
Roadway Express
6180 Hagman Road
Toledo, OH 43612

Re: Election Office Case No. P-889-LU20-MGN

Gentlemen:

A protest was filed with the Election Officer pursuant to Article XI of the Rules for the IBT International Union Delegate and Officer Election, revised August 1, 1990 ("Election Rules"). In their protest Bill Wright and Jr. Mann allege that the Election Rules were violated by Roadway Express as a result of their exclusion from the employee parking lot of the Roadway Toledo, Ohio facility. The Election Officer's investigation of this protest revealed the following.

Bill Wright and Jr. Mann are members of the IBT. Neither Wright nor Mann are employed by Roadway Express. On Friday August 30, 1991 they attempted to distribute campaign literature in the employee parking lot of the Roadway Toledo facility. They were informed by William Scroggins, the personal manager of the Toledo facility, that they could not engage in campaign activities anywhere on "Roadway Property".

The entrance to the employee parking lot is through an unguarded gate which abuts a two lane country road. There is no sidewalk or other public space between the road and the parking lot from which nonmembers could effectively communicate with IBT members employed at the Roadway facility.

The Election Officer has repeatedly recognized that the right to engage in campaign activities, including the distribution of campaign literature, is one of the key rights guaranteed by the Election Rules and goes to the heart of the procedures mandated by the Consent Order. In his Advisory Regarding Political Rights, dated December 28, 1990, the Election Officer emphasized that IBT members have a right of reasonable access to IBT members employed by employers other than their own. In balancing the interests of non-employee IBT members and the property interests of employers of other IBT members the Election Officer considers whether the non-employee IBT member has a reasonable alternate means of access to IBT members. Jean Country, 291 NLRB No. 4 (1988). If circumstances prohibit reasonable face to face contact with IBT members on public property adjacent to a work site the Election Officer has ordered limited access to private property of the employer. Lechmere v. NLRB, 914 F.2d 313 (1st Cir 1990), cert granted.

The point at which these interests are balanced depends upon the facts of each situation. In the instant situation Roadway has agreed to permit access by IBT members not employed by it to the Toledo facility employee parking lot within an area located within twenty-five (25) of the entrances to such lot. It is the Election Officer's determination that such access is consistent with the requirements of the *Rules*. Permitting IBT members not employed by Roadway to campaign within the first twenty-five (25) feet of the Toledo, Ohio employee parking lot will afford IBT members face-to-face contact with their fellow members employed at that facility while not unreasonably burdening Roadway's property interests.

Roadway also asks that IBT members not employed by it wishing to campaign on its Toledo, Ohio parking lot give prior notice to Roadway of such intent. The Election Officer has previously determined that providing such advance notice is consistent with the *Rules*. See Election Office Case No. P-849-LU705-CHI, affirmed 91-Elec. App.-180. Accordingly, in order to insure that this right of access is not inadvertently interfered with by Roadway security personnel and that Roadway is given notice of the presence of non-employees on its property, the Election Officer directs all non-employee IBT members who wish to engage in campaign activity in the employee parking lot to give reasonable advance notice to Roadway.

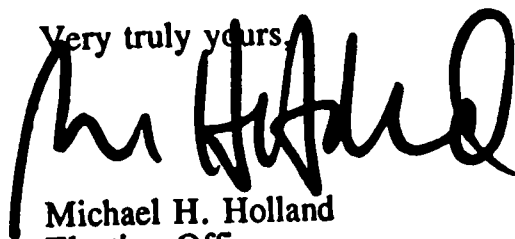
Non-employee IBT members wishing to engage in campaign activities in the employee parking lot of Roadway Express' Toledo facility shall contact Chuck Ostermyer, the Terminal Manager, at 419-729-0631 prior to coming on Roadway's property. The purpose of such notice is not to seek permission for such campaigning but simply to inform the employer that non-employee IBT members will be engaged in campaign activity in the employee parking lot at a particular time.

Bill Wright
September 10, 1991
Page 3

This protest is considered resolved on the basis set forth above.

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
Election Officer

cc: Frederick B. Lacey, Independent Administrator, IBT
James De Haan, Regional Coordinator