

**OFFICE OF THE ELECTION ADMINISTRATOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

IN RE: RANDY KORGAN, RANDY	)	Eligibility Decision 2001 EAD 118
CAMMACK, KEN HAARALA,	)	Issued: January 30, 2001
TOMMY WILSON, CATHY	)	OEA Case No. E012711WE,
SCHATZ, ROBERT TERRELL,	)	E012712WE, E012713WE,
DEL WALTERS, BILL FRIETAG,	)	E012714WE, E012715WE,
BOB DOSS, STEVE ROTH,	)	E012716WE, E012717WE,
STEVE CADENA, MARTIN	)	E012718WE, E012719WE,
PEREZ, CREG QUIROZ, DEBBI	)	E0127110WE, E0127111WE,
BURROWS, FERNANDO	)	E0127112WE, E0127113WE,
MORALES, MIKE	)	E0127114WE, E0127115WE,
WASHINGTON, and KEN GREEN	)	E0127116WE and E0127117WE,
)	
)	
Prospective Candidates.)	

On January 6, 2001, Local 63 held its nomination meeting for delegate and alternate delegate elections. On January 27, 2001, Doyle Rooks, member of Local 63, filed a protest with the Election Administrator regarding the eligibility of Randy Korgan, Randy Cammack, Ken Haarala, Tommy Wilson, Cathy Schatz, Robert Terrell, Del Walters, Bill Frietag, Bob Doss, Steve Roth, Steve Cadena, Martin Perez, Creg Quiroz, Debbi Burrows, Fernando Morales, Mike Washington, and Ken Green to run for delegates to the IBT International Convention. Mr. Rooks claimed that Randy Korgan is ineligible because he was convicted of a felony. Rooks also claims that the other named prospective candidates are ineligible because they employed Korgan with the local even though they were aware of Korgan's felony.

Election Administrator representative Lisa Sonia Taylor investigated this protest.

Article XIII, Section 2 (b) of the *Rules for the 2000-2001 IBT International Union Delegate and Officer Election* ("Rules") requires pre-election protests, including those "regarding eligibility of candidates," to be filed "within two (2) working days of the day when the protestor becomes aware or reasonably should have become aware of the action protested."

Local 63 conducted its nomination meeting on January 6, 2001. On January 8, 2001, a timely protest was filed alleging that Doyle Rooks was ineligible to run as a delegate. During the course of the investigation Mr. Rooks indicated that he might want to file a protest against certain candidates for Local 63 delegate elections. Rooks was informed by our investigator that there was a timeliness issue and that if he wanted to file a protest he would have to do immediately. On January 20, 2001, in a fax sent to the

Election Administrator that dealt with Rooks' eligibility investigation, Rooks indicated in the last sentence that he "will be" protesting Randy Korgan, Randy Cammack and "any officer, B.A., organizer or steward for Local 63." This statement was interpreted as intent to file a protest and not an actual protest. On January 27, 2001, Rooks filed a formal protest challenging the eligibility of Korgan and other named individuals.

Rooks claims that he was not at the nomination meeting and that the local did not respond to his request for a list of the candidates in a timely manner. The Election Administrator finds that Rooks' claims do not justify a review of this case on the merits. Rooks was aware or reasonably should have been aware of the action being protested during the investigation of his eligibility which began shortly after January 8, 2001 and the very latest on January 20, 2001 when he sent in the fax indicating his intention to file a protest.

However, the Election Administrator reviewed documents submitted by Rooks and by Mr. Doyle. From these document it was determined that on April 4, 1995 Korgan pled guilty in a California Superior Court to assault with a deadly weapon, a felony. On December 22, 1995 the court reduced his felony to a misdemeanor.

The *Rules* provide that to be eligible to run for any Convention delegate the member must be eligible to hold office if elected. Article VI, Section 1(a)(3). Under this rule a member will be prohibited from serving as a delegate if that member would also be prohibited from holding office under Section 504 of the LMRDA. *Chilcoat*, E35 (January 26, 1996). This section bars from office persons convicted of or imprisoned for robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill or inflict grievous bodily injury, and any felony involving abuse or misuse of position in a labor union or a labor union's benefit plan. The felony conviction for assault with a deadly weapon would likely be disqualifying under Section 504. *Roofers, Local 13 v. Meese*, 823 F.2d 652 (1st Cir. 1987). However, the Election Administrator does not determine what the legal impact, if any, is in the sentence reduction on Korgan's eligibility. There is no need to do so given the untimeliness of this protest.

Accordingly, this protest is deemed untimely under the *Rules* and DENIED.

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. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Administrator in any such appeal. Requests for a hearing shall be made in writing, shall specify the basis for that appeal, and shall be served upon:

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Kenneth Conboy
Election Appeals Master
Latham & Watkins
Suite 1000
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New York, New York 10022
Fax: 212-751-4864

Copies of the request for hearing must be served upon the parties listed above, as well as upon the Election Administrator for the International Brotherhood of Teamsters, 727 15th Street, N.W., 10th Floor, Washington, D.C. 20005, Facsimile (202) 454-1501, all within the time period prescribed above. A copy of the protest must accompany the request for hearing.



William A. Wertheimer, Jr.
Election Administrator

cc: Kenneth Conboy, Election Appeals Master
Christine Mrak, West Area Regional Director

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