

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: MARIA ASHLEY ALVARADO,)	Protest Decision 2010 ESD 23
)	Issued: August 27, 2010
Protestor.)	OES Case No. P-026-082310-FW
_____)	

Maria Ashley Alvarado, member, president, and delegate candidate of Local Union 601, timely filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2010-2011 IBT International Union Delegate and Officer Election (“*Rules*”). The protest alleged that Lucio Reyes, principal officer of Local Union 601 and candidate for both local union delegate and IBT vice president for the West region, threatened and intimidated a bargaining committee in violation of the *Rules*.

Election Supervisor representatives Rochelle Goffe and Michael Miller investigated this protest.

Findings of Fact

Local Union 601 is a seasonal agricultural local union in California’s Central Valley. Lucio Reyes, principal officer of the local union, is a candidate for delegate in the local union’s delegates and alternate delegates election. Protestor Alvarado, the local union’s president, is employed as a business agent. She also is a candidate for delegate on a slate opposing Reyes’ slate. This local union has been the subject of 8 other protests filed by, against, or concerning Reyes or Alvarado. Four protests filed by Reyes or his son and campaign manager have alleged prohibited campaign activity by Alvarado or her supporters. Two protests filed by supporters of Alvarado have alleged prohibited actions by Reyes.

In this context, the local union’s collective bargaining agreement with Eckert Cold Storage in Escalon, California is open for negotiation of a successor agreement. On August 20, members employed by Eckert who serve on the local union’s bargaining committee met at the Stockton office of the local union to prepare for bargaining session to be held that day. Reyes convened the meeting with Delia Helenes and Francisco Estrada. As the business agent principally responsible for servicing the Eckert unit, Alvarado also attended.

Alvarado’s protest alleged that Reyes told those assembled he was concerned that the local union’s internal politics would affect the negotiations. The protest further alleged that Reyes said the employer knew of the division in the local union and would take advantage of it. Finally, Reyes allegedly told the group that if they did not stay united behind him, serious problems would result and the members would not be able to focus on negotiations. The protest concluded that Reyes’ talk constituted threats and intimidation of the bargaining committee.

Protestor Alvarado told our investigator that Reyes spoke for about 10 minutes, repeating that “if we are not united we are going to have problems in negotiations because the company already knows there are divisions.” Alvarado said she felt that Reyes was saying the union would not be able to negotiate a good contract without him.

August 27, 2010

Reyes told our investigator that the subject of political division within the union was raised by Estrada before Alvarado entered the room. Reyes said he responded to Estrada by saying he was concerned about it as well because the employer may try to exploit it to gain a favorable contract. Reyes said he told the group that they needed to be united behind the union, which he said was everyone's goal. Reyes denied saying that members had to unite behind him as a leader. Instead, he said he told the committee that division and politics will not help the members, that if they are not united they will have problems in negotiations. Reyes was firm with our investigator that he never said or implied that if the members do not support or elect him the contract negotiations would be unsuccessful. He denied that he made an explicit or implicit threat.

Estrada told our investigator that Reyes said it was important that the 4 negotiators present a united front at the bargaining table with Eckert. Reyes elaborated that for the benefit of the members the committee had to work together and present a strong position. Estrada said he detected no inference from Reyes' remarks that Reyes expected personal political support for the negotiations to be successful. Finally, Estrada stated that Reyes did not say or suggest that bad things would happen if members did not support him, nor did he say or suggest that Alvarado had not been doing her job or had not properly represented the members there. Estrada stated that he was not intimidated, coerced or even concerned by anything Reyes said during the meeting.

Helenes, the fourth person in the committee meeting, was a reluctant witness. She told our investigator that she has a bad memory and did not recall what Reyes said during the strategy session. In response to direct questioning by our investigator, Helenes said she did not recall Reyes stating that he had to have the members behind him in order to succeed in negotiations.

Analysis

Article VII, Section 12(g) prohibits retaliation or threats of retaliation against any member for exercising any right guaranteed by the *Rules*. The protest alleged that Reyes violated this provision by implicitly threatening a poor contract if the members did not support his candidacy.

We disagree. The evidence shows that Reyes spoke during the strategy session of the need for unity at the bargaining table so as to avoid a "result that might occur if the employer detected and exploited a lack of solidarity." *Fuentes*, 2006 ESD 258 (May 19, 2006). We find no coercive or retaliatory motivation in Reyes' words, nor do we find that his statements were an explicit or implicit plea for electoral support.

Accordingly, we DENY this protest.

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 Supervisor in any such appeal. Requests for a hearing shall be made in writing, shall specify the basis for the appeal, and shall be served upon:

Alvarado, 2010 ESD 23
August 27, 2010

Kenneth Conboy
Election Appeals Master
Latham & Watkins
885 Third Avenue, Suite 1000
New York, NY 10022
Fax: (212) 751-4864

Copies of the request for hearing must be served upon the parties, as well as upon the Election Supervisor for the International Brotherhood of Teamsters, 1801 K Street, N.W., Suite 421 L, Washington, D.C. 20006, all within the time prescribed above. A copy of the protest must accompany the request for hearing.

Richard W. Mark
Election Supervisor

cc: Kenneth Conboy
2010 ESD 23

Alvarado, 2010 ESD 23
August 27, 2010

DISTRIBUTION LIST (BY EMAIL UNLESS OTHERWISE SPECIFIED):

Bradley T. Raymond, General Counsel
International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, D.C. 20001
braymond@teamster.org

David J. Hoffa
Hoffa Keegel 2011
1100 Connecticut Avenue, N.W., Ste. 730
Washington, D.C. 20036
hoffadav@hotmail.com

Ken Paff
Teamsters for a Democratic Union
P.O. Box 10128
Detroit, MI 48210-0128
ken@tdu.org

Barbara Harvey
1394 E. Jefferson Avenue
Detroit, MI 48207
blmharvey@sbcglobal.net

Fred Gegare
P.O. Box 9663
Green Bay, WI 54308-9663
kirchmanb@yahoo.com

Scott D. Soldon
Previant Goldberg
1555 North RiverCenter Drive, Ste. 202
P.O. Box 12993
Milwaukee, WI 53212
sds@previant.com

Fred Zuckerman, President
Teamsters Local Union 89
3813 Taylor Blvd.
Louisville, KY 40215

fredzuckerman@aol.com

Robert M. Colone, Esq.
P.O. Box 272
Sellersburg, IN 47172-0272
rmcolone@hotmail.com

Lucio Reyes, Secretary-Treasurer
Teamsters Local Union 601
745 E. Miner Ave.
Stockton, CA 95202
lreyes601@sbcglobal.net

Maria Ashley Alvarado, President
Teamsters Local Union 601
745 E. Miner Ave.
Stockton, CA 95202
europeartmuseum@yahoo.com

Christine Mrak
2357 Hobart Avenue, SW
Seattle, WA 98116
chrismrak@gmail.com

Rochelle Goffe
1234 22nd Avenue, E
Seattle, WA 98112
rochellegoffe@gmail.com

Michael J. Miller
1611 Granville Ave., #8
Los Angeles, CA 90025
miller.michael.j@verizon.net

Jeffrey J. Ellison
214 S. Main Street, Ste. 210
Ann Arbor, MI 48104
EllisonEsq@aol.com