

IN RE:

RANDY KORGAN

01 - Elec. App. – 026 (KC)

This matter is an appeal from the Election Administrator’s decision 2001 EAD 118, issued January 30, 2001. The appeal hearing was requested on February 1, 2001 by Doyle L. Rooks, the protestor and a member of Teamsters Local Union 63 in Covina, California.

A hearing was held before me on February 6, 2001. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq. and Lisa Sonia Taylor, Esq. for the Election Administrator’s Office (“EA”); Mr. Rooks; Kenneth Young, Esq., on behalf of Local Union 63; Barbara Harvey, Esq. and Debra Axt, Esq. on behalf of Mr. Rooks; and Bob Doss, Business Agent of Local 63. No further submissions were received on this matter.

The issue in this appeal deals with the timeliness of Mr. Rooks’ protest regarding Randy Korgan’s eligibility to run for Local Union 63 delegate. On January 27, 2001, almost three weeks after the Local Union 63 nomination meeting, Mr. Rooks filed a protest alleging Mr. Korgan ineligible because, in 1995, Mr. Korgan had pled guilty to a felony, assault with a deadly weapon, which later was reduced to a misdemeanor.¹ Mr. Rooks claims that the two day deadline for filing protests under Article XIII, Section 2(b) of the Rules is unfair in this instance, because the Local Union did not respond to his request for the list of nominated candidates until January 23, 2001. However, the EA’s investigation found that Mr. Rooks was aware of the time

¹ A member is prohibited from serving as a delegate if he cannot meet the eligibility requirements under Article VI, Section 1(a)(3) of the Rules which state that a delegate must be eligible to hold office if elected. Under

requirements of the Rules and was told by the EA's office that he needed to file his protest promptly².

Ms. Harvey, on behalf of Mr. Rooks, only spoke to the issue of Mr. Korgan's ineligibility due to the aforementioned provision of the LMDRA. Mr. Young, on behalf of the Local Union, argued that since Mr. Korgan's formal record states that he was convicted of a misdemeanor, this conviction does not prohibit him from holding office under Section 504 of the LMDRA.

I asked counsel to brief the issue of statutory eligibility under Section 504 of the LMRDA, and continued the hearing to the next day. However, through a letter from Mr. Young dated February 6, 2001, Mr. Korgan withdrew his acceptance of candidacy for delegate.

Accordingly, Mr. Korgan's withdrawal renders this appeal moot.

_____/s/Kenneth Conboy_____
Kenneth Conboy
Election Appeals Master

Dated: February 14, 2001

Section 504 of the LMRDA, a person convicted of or imprisoned for certain crimes is barred from holding office.

² There was a protest filed against Mr. Rooks, that is not the subject of this appeal, and it was during the course of this investigation that Mr. Rooks indicated to the EA's investigator that he "intended" to file his own protest against certain candidates.