

IN RE:
MARIANO PIMENTEL

01 - Elec. App. – 058(KC)

This matter is an appeal from the Election Administrator’s (the “EA”) decision 2001 EAD 251, issued March 21, 2001. The hearing was requested by: (a) Mariano Pimentel, the protestor, temporary business agent and independent delegate candidate from Teamsters Local Union 996 in Honolulu, Hawaii; and (b) Mel Kahele, President and PEO of Local Union 996.

A hearing was held before me on April 4, 2001. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq. for the Election Administrator’s Office; Mr. Pimentel; and April Kim, executive assistant to Mr. Kahele. This office received no additional submissions.

Mr. Pimentel alleged in his protest that he had suffered instances of harassment from the supporters of the Kahele/Kozuma Slate because of his candidacy for delegate in opposition to this slate. All but one of the allegations was denied by the EA on the merits¹. This protest involved the allegation of vandalism Mr. Pimentel claims occurred in the Local Union 996 parking lot on Saturday, January 13, 2001.

Although the EA’s investigation credited Mr. Pimentel’s story that his tires were punctured in the Local Union 996 lot, the perpetrator of the alleged vandalism was never identified. However, as the EA states in his decision, “...it is important that the IBT members

¹ In his appeal request, Mr. Pimentel takes issue with the factual findings of the EA’s investigation. However, he presented no evidence at the hearing to refute the EA’s findings. Therefore, as I have noted many times the

understand that the Rules protect them from vandalism and other forms of intimidation.” (See, Page 4, 2001 EAD 251 (March 21, 2001)). Therefore, the EA ordered that a notice be posted on all bulletin boards in the local union hall and at all worksite under Local Union 996’s jurisdiction.

Mr. Kahele appealed this decision as to the vandalism issue only. He argued, on behalf of Local Union 996, that: (a) the protest regarding the vandalism was untimely, since it was filed some six weeks after the incident occurred; and (b) Local Union 996 was denied due process, having not seen nor received a copy of the protest that alleged the incident, and therefore did not have an opportunity to gather or present evidence to refute the charge.

During the appeal hearing there arose some questions as to how and when alleged vandalism occurred. Therefore, I am remanding this matter back to the EA for further evidentiary investigation as to the vandalism incident only. On the other allegations, I affirm the EA’s decision in all respects.

s/Kenneth Conboy
Kenneth Conboy
Election Appeals Master

Dated: April 19, 2001

factual findings of the EA’s office are given substantial deference, I see no reason to disturb them in this decision.