

In the Matter of W. T. KILLEBREW, W. B. KILLEBREW AND H. C. KILLEBREW d/B/A HOPKINSVILLE CLOTHING MANUFACTURING COMPANY and UNITED GARMENT WORKERS OF AMERICA, A. F. OF L.

Case No. 14-R-788.—Decided November 23, 1943

Mr. W. H. Southall, of Hopkinsville, Ky., for the Company.

Mr. A. Berkson, of New York City, *Mr. Clyde W. Stinson*, of Kansas City, Mo., and *Mr. Charles M. Elder*, of Louisville, Ky., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Garment Workers of America, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of W. T. Killebrew, W. B. Killebrew and H. C. Killebrew, d/b/a Hopkinsville Clothing Manufacturing Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Harold L. Hudson, Trial Examiner. Said hearing was held at Hopkinsville, Kentucky, on November 4, 1943. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Hopkinsville Clothing Manufacturing Company is a partnership engaged in the manufacture of men's trousers for the United States

Army at Hopkinsville, Kentucky. During 1942, the Company purchased materials valued in excess of \$20,000, over 50 percent of which was shipped to it from points outside the State of Kentucky. During the same period the Company shipped products valued in excess of \$100,000, all of which was sent to points outside the State of Kentucky.

II. THE ORGANIZATION INVOLVED

United Garment Workers of America is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as the exclusive collective bargaining representative of its employees.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

IV. THE APPROPRIATE UNIT

We find, in agreement with a stipulation of the parties, that all employees of the Company, excluding office employees, foremen, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We find that the question concerning representation which has arisen can best be resolved by means of an election by secret ballot. The Union urges that the pay roll of October 5, 1943, be used to determine eligibility to vote. Inasmuch as no reason appears as to why we should depart from our usual practice, we shall direct that those eligible to vote shall be the employees in the appropriate unit who were employed during the pay roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

¹The Regional Director reported that the Union presented 59 authorization cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of September 27, 1943. There are approximately 93 employees in the appropriate unit.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with W. T. Killebrew, W. B. Killebrew and H. C. Killebrew d/b/a Hopkinsville Clothing Manufacturing Company, Hopkinsville, Kentucky, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Fourteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and who have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by United Garment Workers of America, affiliated with the American Federation of Labor, for the purposes of collective bargaining.