

In the Matter of UNITED STATES ALUMINUM COMPANY and INTERNATIONAL UNION, ALUMINUM WORKERS OF AMERICA, No. 24, CIO

Case No. 2-R-4333.—Decided February 4, 1944

Messrs. F. Naegley Humes, A. H. Hinton, and D. G. Gill, of Fairfield, Conn., for the Company.

Mr. Howard B. Bouton, of Bridgeport, Conn., for the Union.

Mr. Wallace E. Royster, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Union, Aluminum Workers of America, No. 24, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of United States Aluminum Company, of Bridgeport and Fairfield, Connecticut, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Cyril W. O'Gorman, Trial Examiner. Said hearing was held at Bridgeport, Connecticut, on December 22, 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

United States Aluminum Company, a wholly owned subsidiary of Aluminum Company of America, is a Pennsylvania corporation with its main office in Pittsburgh, Pennsylvania. The Company operates two plants in Bridgeport, Connecticut, and another in Fairfield,

Connecticut, where it is engaged in the manufacture of aluminum and magnesium castings. During the 12-month period ending November 30, 1943, the Company used at the above named plants raw materials of a value in excess of \$100,000 each month, 90 percent of which was shipped to the plants from points outside the State of Connecticut. During the same period, the value of the monthly production of these plants exceeded \$1,000,000. The Company's facilities are devoted entirely to war work. The Company concedes that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Union, Aluminum Workers of America, No. 24, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

It was stipulated at the hearing that prior to the filing of the petition herein, the Union requested the Company to bargain with it as the exclusive representative of all plant-protection guards employed in the Bridgeport and Fairfield plants, and that the Company refused so to bargain unless and until the Union is certified as such bargaining representative by the Board.

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

IV. THE APPROPRIATE UNIT

The unit requested by the Union would include all militarized plant-protection guards employed by the Company at its Bridgeport and Fairfield plants. The employees in question are armed, uniformed, and under the general direction of the military authorities. All have taken the prescribed oath for auxiliary military police and also have been deputized by the Connecticut State Police. Their duties generally are to protect the property of the Company from all hazards, to report violations of company rules, and to prevent unauthorized per-

¹ The Regional Director stated that the Union submitted 38 authorization cards, 26 of which bore the names of persons appearing on the Company's pay roll of November 29, 1943. Six cards were undated; the remainder were dated in September and October 1943. There are 85 employees in the appropriate unit.

sons from gaining access to the plants. They have no power to impose penalties or to recommend the disciplining of employees.

The Company contends that plant guards such as these perform management functions and consequently cannot constitute an appropriate bargaining unit. This contention has been frequently presented to the Board and we have consistently rejected it.² Militarized plant-protection guards do have duties and responsibilities which serve to set them apart from their fellow employees, but they retain their essential employment relationship to the Company and may exercise their right to designate representatives for the purposes of collective bargaining.

The production and maintenance employees in the 3 plants of the Company are represented by the Union in a single bargaining unit. Hence, the Company agrees that if its contention, above, is rejected, the 3-plant unit requested by the Union is appropriate. The parties are also in agreement as to the exclusion from the unit of certain categories of guards who perform supervisory functions or have access to confidential information concerning labor relations. In accordance, then, with the agreement of the parties, we find that all militarized plant-protection guards employed by the Company at the Bridgeport and Fairfield plants, excluding special personnel office guards, telephone and reception guards, lieutenants, master sergeants, senior sergeants, junior sergeants, 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 shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among 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.

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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with United States

² See *Matter of Dravo Corporation*, 52 N. L. R. B. 322, and prior Board decisions.

Aluminum Company, Bridgeport and Fairfield, Connecticut, 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 Second 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 have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by International Union, Aluminum Workers of America, No. 24, CIO, for the purposes of collective bargaining.