

In the Matter of THE J. S. YOUNG COMPANY and CONGRESS OF INDUSTRIAL ORGANIZATIONS

Case No. 5-R-1457

SUPPLEMENTAL DECISION
AND
CERTIFICATION OF REPRESENTATIVES

April 10, 1944

On February 16, 1944, the National Labor Relations Board issued a Decision and Direction of Election in the above-entitled proceeding.¹ Pursuant to the Direction of Election, an election by secret ballot was conducted on March 3, 1944, under the direction and supervision of the Regional Director for the Fifth Region (Baltimore, Maryland). Upon the conclusion of the election, a Tally of the Ballots was furnished the parties in accordance with the Rules and Regulations of the Board.

As to the balloting and its results, the tally shows the following:

Approximate number of eligible voters.....	87
Valid votes counted.....	65
Votes cast for Congress of Industrial Organizations.....	33
Votes cast against Congress of Industrial Organizations.....	32
Challenged ballots.....	1
Void ballots.....	0

Since the challenged ballot may affect the result of the election, the Regional Director, on March 15, 1944, issued and duly served upon the parties a Report on Challenged Ballot, recommending that the challenge be allowed and that the Board certify the Congress of Industrial Organizations as exclusive bargaining representative of the employees in the unit found appropriate in the aforesaid Decision and Direction of Election. Thereafter, on March 31, 1944, the Company filed exceptions to the Report on Challenged Ballot.

The Regional Director's report discloses that the ballot in question was cast by H. C. Maslin, and was challenged by a Field Examiner, as agent for the Board. Maslin worked for the Company as a regular, full-time employee from 1919 to July 1940, first as a boilerman and

¹ 54 N. L. R. B. 1375.

55 N. L. R. B., No. 211.

later as a storeman and general handyman. According to Maslin's affidavit, he ceased work in July 1940, when, having reached the age of 75 years, he was informed by two company officials that he could no longer "hold his end of the work up" and that he would be paid a sum of money each week until he was able to resume his duties. Since July 1940, in recognition of his length of service, the Company has paid Maslin \$6.20 per week, and has maintained his insurance under a group insurance policy covering all of its employees. When Maslin reports once a week to collect his pay, he performs "odds and ends" around the plant, but since 1940 he has not engaged in regular work. The Company states that Maslin will resume full-time employment as soon as he is physically fit, and should therefore be permitted to vote as a regular employee who is ill or temporarily laid off. We do not agree. Notwithstanding the Company's willingness to have Maslin resume regular employment at its plant, the facts show that Maslin, now 79 years of age, has little expectation of active employment.² We therefore find Maslin ineligible to vote and sustain the challenge of his ballot.

CERTIFICATION OF REPRESENTATIVES

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, Sections 9 and 10, of National Labor Relations Board Rules and Regulations—Series 3.

IT IS HEREBY CERTIFIED that Congress of Industrial Organizations has been designated and selected by a majority of all production and maintenance employees of The J. S. Young Company, Baltimore, Maryland, excluding clerical employees and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the National Labor Relations Act, the said organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

CHAIRMAN MILLIS took no part in the consideration of the above Supplemental Decision and Certification of Representatives.

² See *Matter of W D Byron & Sons of Maryland, Inc*, 55 N. L. R. B. 172.