

In the Matter of WYATT METAL & BOILER WORKS and UNITED STEEL-  
WORKERS OF AMERICA (CIO)

*Case No. 16-R-958.—Decided July 27, 1944*

*Messrs. Ralph Malone and Floyd McGibbons, of Dallas, Tex., for the Company.*

*Mr. W. A. Leigh, of Dallas, Tex., for the Union.*

*Mr. Philip Licari, of counsel to the Board.*

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America (CIO), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Wyatt Metal & Boiler Works, Dallas, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Milton A. Nixon, Trial Examiner. Said hearing was held at Dallas, Texas, on June 19, 1944. The Company and the Union appeared and participated. All parties 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 an 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

Wyatt Metal & Boiler Works is a Texas corporation engaged at Houston and Dallas, Texas, in the business of manufacturing steel plates, tanks, and refinery and chemical plant equipment. During the preceding 6 months, the Company purchased from points outside the State of Texas raw materials valued at approximately \$200,000. Dur-

ing the same period, the Company shipped to points outside the State of Texas finished products valued at approximately \$500,000.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

United Steelworkers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its Dallas plant guards until the Union has been certified by the Board in an appropriate unit.

A statement of a Field Examiner for the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</sup>

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 Union requests a unit composed of all guards employed by the Company at its Dallas plant. However, the Company argues that the unit sought is inappropriate because guards are managerial and confidential employees, and because the Union, currently representing the production and maintenance employees of the Dallas plant,<sup>2</sup> improperly seeks to represent the guards as well.

The three guards at the Dallas plant are armed and uniformed. It is clear that their duties are confined to performing functions usually associated with their classification. Thus, they identify persons and vehicles entering and leaving the plant, keep under surveillance the Company's property, and make routine reports respecting the infraction of rules and regulations promulgated by the Company.

Where similar facts have been presented, we have rejected arguments concerning guards, identical to those advanced by the Company in this proceeding.<sup>3</sup>

<sup>1</sup> The Field Examiner reported that the Union submitted three authorization cards dated February 1944, all of which bore apparently genuine original signatures. There are three employees in the unit found appropriate.

<sup>2</sup> As the result of a consent election held under the auspices of the Board on May 9, 1944, the Union is the representative of the production and maintenance employees at the Dallas plant.

<sup>3</sup> See *Matter of Chrysler Corporation, Highland Park Plant*, 44 N. L. R. B. 881.

We find, consequently, that all guards employed by the Company at its Dallas plant, excluding all 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 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Wyatt Metal & Boiler Works, Dallas, Texas, 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 Sixteenth 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 United Steelworkers of America (CIO), for the purposes of collective bargaining.