

IN the Matter of DEWITT MCKINLEY, ROBERT B. MCKINLEY, AND EDNA MCKINLEY CRISLER, CO-PARTNERS, D/B/A MCKINLEY IRON WORKS and UNITED STEELWORKERS OF AMERICA, C. I. O.

Case No. 16-R-1016.—Decided October 10, 1944

Mr. Sidney L. Samuels, of Fort Worth, Tex., for the Company.

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

Mr. Bernard Goldberg, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by United Steelworkers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of DeWitt McKinley, Robert B. McKinley, and Edna McKinley Crisler, Co-partners doing business as McKinley Iron Works, Fort Worth, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Earl Saunders, Trial Examiner. Said hearing was held at Fort Worth, Texas, on September 15, 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

DeWitt McKinley, Robert B. McKinley, and Edna McKinley Crisler, Co-partners doing business as McKinley Iron Works, are engaged in the manufacture of iron castings at Fort Worth, Texas.

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During the 6 months from February to July 1944, the Company purchased for use in its manufacturing operations, pig iron valued at \$28,587.93, all of which came from outside the State of Texas, and scrap iron valued at \$43,088 of which \$411 worth was purchased outside the State of Texas. Thus, approximately 40 percent of the 2 principal raw materials used by the Company was shipped into the State of Texas from points outside the State. During the same period, the Company sold manufactured products valued at \$285,622.70, of which \$7,890.75 or 2.76 percent represents sales to customers outside the State of Texas. About 10 percent of its sales during the period referred to above was made to the Austin Bridge Company, a Texas firm engaged in making housing and magnesium castings for incendiary bombs.

We find, contrary to its contention, that the Company 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

On August 3, 1944, the Union wrote the Company asking for recognition as the exclusive bargaining representative of the Company's production and maintenance employees. The Company replied on August 9, 1944, requesting the Union to submit all signed membership cards so that the Company might determine if the Union did, in fact, represent a majority of its employees. The Union refused to accede to this request and filed the petition herein.

A statement of a Board agent, introduced into 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 Union seeks a unit of all production and maintenance employees excluding office clerical employees and all supervisory per-

¹ The Field Examiner reported that the Union submitted 105 authorization cards; that the names of 69 persons appearing on the cards were listed on the Company's pay roll of August 12, 1944, which contained the names of 128 employees in the appropriate unit, and that the 69 cards were dated as follows: 12 in July 1944, 2 in August 1944, and 55 were undated.

sonnel. The Company takes no position with respect to the appropriateness of the aforesaid unit.

We find that all production and maintenance employees² at the Company's Fort Worth, Texas, plant, excluding all office 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, 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 DeWitt McKinley, Robert B. McKinley, and Edna McKinley Crisler, Co-partners doing business as McKinley Iron Works, Fort Worth, 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 because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present them-

²Included in the category of production and maintenance employees are the following job classifications: floor moulder, moulder helper or apprentice, machine moulder, core-maker, coremaker helper or apprentice, chipper or grinder, chipper or grinder helper or apprentice, laborer, welder, shipping clerk, truck driver, cupola tender and charger, furnace helper, maintenance mechanic, storekeeper, carpenter, warehouseman, clean-up man, pattern maker, pattern maker apprentice, ladleman, sand mixer, watchman-clean-up man, utility man.

selves in person at the polls, but excluding those employees 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, C. I. O., for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.