

In the Matter of AMERICAN SMELTING & REFINING COMPANY, HAYDEN
OPERATION, EMPLOYER *and* LOCAL UNION No. 314, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL WORKERS, AFL, PETITIONER

Case No. 21-RC-262.—Decided October 12, 1948

DECISION

AND

ORDER

Upon a petition duly filed, a hearing was held before a hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-man panel consisting of the undersigned Board Members.*

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. International Union of Mine, Mill and Smelter Workers, C. I. O., and its Local Union No. 886, hereinafter jointly called the Intervenor, and the Petitioner are labor organizations which claim to represent employees of the Employer.

3. No question affecting commerce exists concerning the representation of employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act, for the following reasons:

On July 29, 1947, as the result of a prehearing election, the Intervenor was certified by the Board¹ as the exclusive bargaining representative of the Employer's production and maintenance employees, including the employees here involved. Thereafter the Employer and the Intervenor executed a collective bargaining agreement, effective until June 20, 1948. Prior to the expiration of this contract, the Employer and the Intervenor entered into negotiations for a new contract,

*Houston, Murdock, and Gray.

¹ Case No. 21-R-3941.

79 N. L. R. B., No. 178.

which was subsequently executed on or about July 26, 1948. On May 3, 1948, the petition in the instant case was filed. The Intervenor contends that this petition is not timely because it was filed within a year of the Board's certification.

We have held² that a collective bargaining agreement for a reasonable period, entered into within the year following certification of the contracting union, is a bar during its term to a petition filed by a rival union, notwithstanding the fact that the parties had been put on notice of a rival claim, or the fact that the contract claimed to be a bar is a second contract executed within the certification year. Therefore, inasmuch as the existing contract was negotiated and executed within 1 year of certification of the Intervenor, we find that it is a bar to a present determination of representatives. Accordingly, we shall dismiss the petition herein.

ORDER

Upon the basis of the foregoing findings of fact and the entire record in the case, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of the employees of American Smelting & Refining Company, Hayden Operation, Hayden, Arizona, filed by Local Union No. 314, International Brotherhood of Electrical Workers, AFL, be, and it hereby is, dismissed.

² *Matter of Texas Paper Box Manufacturing Company*, 75 N. L. R. B. 799; *Matter of DeVry Corporation*, 73 N. L. R. B. 1145; *Matter of Quaker Maid Company, Incorporated*, 71 N. L. R. B. 915.