

In the Matter of H. PAUL PRIGG, AN INDIVIDUAL, DOING BUSINESS UNDER THE NAME AND STYLE OF PRIGG BOAT WORKS *and* INDUSTRIAL UNION OF MARINE AND SHIPBUILDING WORKERS OF AMERICA, C. I. O.

Case No. 10-C-1660

SUPPLEMENTAL DECISION AND RECOMMENDATION

October 31, 1950

On June 27, 1946, the National Labor Relations Board, herein called the Board, issued a Decision and Order in the above-entitled proceeding.¹ On February 25, 1949, the United States Court of Appeals for the Fifth Circuit enforced all provisions of said Order, except those relating to reinstatement and back pay. As to those provisions, the matter was remanded by the Court to the Board for "further inquiry and report."² Pursuant to said remand, a hearing was duly held before Trial Examiner Eugene E. Dixon.

On February 21, 1950, the Trial Examiner issued a Supplemental Intermediate Report finding that as of the date of the Board's original Order in the proceeding, the employment of all six of the named claimants normally would have been terminated because of a continued reduction of operations and consequently reinstatement was not required, but that four of the claimants were entitled to back pay. Thereafter, exceptions and supporting briefs were filed by the Respondent and the General Counsel. The Respondent's request for oral argument is hereby denied, as the record and briefs, in our opinion, adequately present the issues and the positions of the parties.

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and briefs filed by the parties, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

¹ 69 NLRB 97.

² *N. L. R. B. v. Prigg Boat Works*, 172 F. 2d 948 (C. A. 5).

91 NLRB No. 208.

RECOMMENDATIONS

Upon the basis of this Supplemental Decision and the entire record in the case, the National Labor Relations Board hereby respectfully recommends to the United States Court of Appeals for the Fifth Circuit:

(a) That paragraph 2 (a) of the original Order herein (relating to reinstatement) be denied enforcement;

(b) That paragraph 2 (b) thereof be enforced only with respect to Henry Berry, D. H. Wood, H. P. Belknap,³ and P. G. Watton;

(c) That gross back pay be awarded to: H. P. Belknap, from 2:30 p. m., February 5 to May 4, 1945; P. G. Watton, from the close of business on February 7 to August 17, 1945; D. H. Wood, from the close of business on February 7, 1945, to the date he left the employment of Merrill Dynamite Company of Miami; and Henry Berry, from March 24 to August 17, 1945; and that such gross back pay be computed in accordance with the formula set up in the Supplemental Intermediate Report;⁴

(d) That the interim earnings of each claimant as found by the Trial Examiner, less any expenses found by the Trial Examiner, shall constitute their interim earnings;

(e) That the net back pay awarded each claimant shall be computed by deducting the interim earnings from gross back pay.

MEMBERS REYNOLDS and STYLES took no part in the consideration of the above Supplemental Decision and Recommendation.

³ Inadvertently referred to as J. P. Belknap in the original Order.

⁴ In the absence of exceptions to the Trial Examiner's use of the absentee factor in his formula for computing back pay and his finding that D. H. Wood's back pay terminated as of the time he quit his employment with the Merrill Company, we adopt his action in that respect without comment.