

Alto Plastic Manufacturing Corporation and United Industrial Workers' Local 976, AIW, AFL-CIO, Petitioner. *Case No. 21-RC-4807. February 5, 1958*

SUPPLEMENTAL DECISION AND CERTIFICATION OF REPRESENTATIVES

Pursuant to a Decision and Direction of Election¹ dated July 31, 1957, an election by secret ballot was conducted on August 21, 1957, under the direction and supervision of the Regional Director for the Twenty-first Region, among the employees in the unit found appropriate in the above-mentioned Decision. Thereafter a tally of ballots was furnished the parties, showing that of approximately 152 eligible voters, 143 cast ballots, of which 107 were cast for the Petitioner, 34 were cast against the Petitioner, and 2 were challenged ballots.²

On August 26, 1957, the Employer filed timely objections to the election alleging that the Petitioner, by its August 20 circular, misled the employees by denying its connection with the Allied Industrial Workers, AFL-CIO, Petitioner's International, herein called AIW.³ In accordance with the Board's Rules and Regulations, the Regional Director conducted an investigation of the Employer's objections and on September 16, 1957, issued and duly served upon the parties his report on objections, in which he recommended that the objections be overruled. Thereafter, the Employer filed timely exceptions to the report on objections and requested the Board not to certify the Petitioner.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this proceeding to a three-member panel [Members Rodgers, Bean, and Jenkins].

The Board has considered the Employer's objections and exceptions, the Regional Director's report and upon the entire record in this case, the Board finds:

The Regional Director's report shows that on August 16, 1957, the Employer distributed written propaganda in the form of a letter with attached newspaper articles and pictures. The substance of the propaganda was to advise the employees that the Petitioner was a part of the AIW and was dominated by gangsters and other notorious individuals such as Johnny Dio, Anthony Doria, and Angelo Inciso, whose questionable conduct of the affairs of the AIW were revealed by the Senate Rackets Committee.

On August 20, 1957, the day before the election, the Petitioner distributed a written reply to the Employer's propaganda. The reply

¹ Not reported in the printed volumes of Board Decisions and Orders.

² The challenged ballots are insufficient to affect the results of the election.

³ In its original objections the Employer relied also on "numerous personal contacts," but subsequently by amending its objections, the Employer limited its objections to the circular of August 20, 1957.

denied that "Johnny Dio or any other New York local union members has ever had anything to do with" the Petitioner, and that any officer or member of the Petitioner "has ever taken the fifth amendment before any committee of the Government." Further, the Petitioner asserted that no proof of wrongdoing had ever been charged against any member of the Petitioner, and that there had never been any proof of any wrongdoing in the Petitioner. The Petitioner in its denials at no time mentioned the AIW in any way.

Because the Petitioner denied that it or its members had engaged in the misconduct alleged by the Employer and there is no evidence of such misconduct by the Petitioner and because the Petitioner, who at all times prior to the election had been affiliated with the AIW, did not deny this affiliation with the AIW, we agree with the Regional Director that the Petitioner's reply of August 20 is legitimate propaganda and did not interfere with the employees' free choice in the election.⁴ Accordingly, we find no merit in the Employer's exceptions and hereby overrule these objections.

In its exceptions, the Employer also requests that the Petitioner not be certified because it has disaffiliated from the AIW, whose activities, as hereinabove set forth, have been investigated by the Senate Rackets Committee. The Employer submitted newspaper articles which indicate that, subsequent to the election, the Petitioner's "Joint Board" announced its disaffiliation from the AIW; that it was now called "Independent United Industrial Workers"; that the AIW had appointed a "Special Administrator" for the Petitioner; and that there was litigation between the Petitioner and the AIW. In these circumstances, assuming even that the alleged disaffiliation has actually taken place, the facts here do not indicate a schism or other internal dispute within the Petitioner resulting in the establishment of a new union. Rather they show that the alleged change in character and status of the Petitioner is merely one of designation and affiliation.⁵ Accordingly, we find no merit in the Employer's exceptions, and in agreement with the Regional Director, find that the objections do not raise substantial or material issues with respect to conduct affecting the results of the election. We therefore overrule the objections.

As the tally of ballots shows that the Petitioner received a majority of the votes cast in the election, we shall certify the Petitioner.

[The Board certified United Industrial Workers' Local 976, AIW, AFL-CIO, as the designated collective-bargaining representative of the production and maintenance employees of the Employer at its assembly plant at Los Angeles, California.]

⁴ See *Allis-Chalmers Manufacturing Co.*, 117 NLRB 744, 747-8; *The Elm City Broadcasting Corporation*, 116 NLRB 1670, 1674. See also *Lloyd A. Fry Roofing Company*, 118 NLRB 312.

⁵ *Dryden Rubber Division of Sheller Manufacturing Company*, 118 NLRB 369. See also *Dalmo Victor Company Division of Textron Inc.*, 119 NLRB 737, and *Lloyd A. Fry Roofing Company*, *supra*.