

cluding janitorial maintenance employees, but excluding machinery maintenance mechanics, all other employees, guards, and supervisors as defined in the Act, as amended.

**BUTCHERS' UNION LOCAL 120, AMALGAMATED MEAT CUTTERS
& BUTCHER WORKMEN OF NORTH AMERICA, AFL-CIO,
Labor Organization.**

Dated----- By-----
(Representative) (Title)

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material. Members of the signatory labor organization and employees may communicate with the Board's Regional Office, 450 Golden Gate Avenue, San Francisco, California, Telephone No. 556-6721, if they have any question concerning this notice or compliance with its provisions.

Food Giant Supermarkets; Mayfair Markets, d/b/a El Rancho Markets; Safeway Stores, Inc. and Retail Clerks International Association Local 727, AFL-CIO. Case No. 28-CA-975. July 27, 1965

SUPPLEMENTAL DECISION AND ORDER

On January 24, 1964, the Board issued a Decision and Order in this case¹ finding that the Respondents had engaged in and were engaging in certain unfair labor practices in violation of Section 8(a) (1) and (3) of the Act. The Board noted in its Decision that this case was indistinguishable from *John Brown et al., d/b/a Brown Food Store*, 137 NLRB 73,² enforcement denied 319 F. 2d 7 (C.A. 10), then pending before the Supreme Court of the United States. Thereafter the Respondents filed a request for review in the Court of Appeals for the Ninth Circuit and the Board filed a cross-petition for enforcement. On March 29, 1965, the Supreme Court rendered its decision in *N.L.R.B. v. John Brown, et al., d/b/a Brown Food Store*, 380 U.S. 278, affirming denial of enforcement of the Board's Order. Subsequently the court of appeals, on the Board's motion, extended the time for all further proceedings in this case to June 29, 1965, to enable the Board to consider the case further in the light of the *Brown* decision.

Thereafter, on June 28, 1965, the Board issued and caused to be served upon the parties a notice to show cause in which the Board stated that, having reconsidered the entire record in this proceeding in light of the decision of the Supreme Court in *Brown, supra*, it had concluded that the instant case is controlled in all respects by the *Brown* decision; and that, therefore, the Board proposed to issue a Supplemental Decision and Order dismissing the complaint in its entirety, unless the parties showed cause in writing, on or before July 8, 1965, why the complaint should not be so dismissed.

¹ 145 NLRB 1221.

² Members Rodgers and Fanning dissenting

154 NLRB No. 8.

No response to the notice to show cause was thereafter filed with the Board. Accordingly, and for the reasons stated in the notice, we shall dismiss the complaint in its entirety.

[The Board dismissed the complaint.]

Security Guard Service, Inc., Petitioner and Gus Rallis. Case No. 28-UC-1. July 27, 1965

ORDER DENYING PETITION FOR CLARIFICATION AND AMENDMENT OF CERTIFIED UNIT

On September 17, 1964, the Regional Director for Region 28 certified Gus Rallis as exclusive bargaining representative for a unit of all guards employed by the Employer at the NASA site at Organ, New Mexico, excluding office clerical employees and supervisors as defined in the National Labor Relations Act, as amended.¹ Thereafter, on January 15, 1965, the Employer filed a petition for unit clarification and amendment of certification in which it requests the National Labor Relations Board to exclude shift supervisors or sergeants from the previously certified bargaining unit on the ground that events since the aforementioned certification show them to be supervisors as defined in the Act.

A hearing was held upon the instant petition before Hearing Officer L. L. Porterfield on February 8, 1965. All parties appeared at the hearing and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to adduce evidence bearing on the issues. The rulings of the Hearing Officer made at the hearing are free from prejudicial error and are hereby affirmed. The Employer filed a brief which has been duly considered.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Fanning, Brown, and Jenkins].

The supervisory status of the Employer's shift supervisors or sergeants was one of the principal issues litigated in the representation proceeding in Case No. 28-RC-1211. In that proceeding, the Employer took the position that sergeants should be excluded from the unit as supervisors, whereas the Petitioner contended they should be included as rank-and-file employees. In the Decision and Direction of Election in that case, issued August 19, 1964, the Regional Director determined that sergeants were not supervisors within the meaning of

¹ Case No. 28-RC-1211.