

The Wackenhut Corporation and Hermandad de Vigilantes de Puerto Rico, Petitioner. Case 24-RC-3241

January 29, 1968

DECISION ON REVIEW AND ORDER

**BY CHAIRMAN McCULLOCH AND MEMBERS
FANNING AND ZAGORIA**

On September 28, 1967, the Regional Director for Region 24 issued a Decision and Direction of Election in the above-entitled proceeding, in which he directed an election in a unit of guards and protection employees employed by the Employer in Puerto Rico. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Intervenor¹ filed a timely request for review, alleging that the Regional Director misinterpreted and departed from officially reported Board precedent. By telegraphic Order dated October 26, 1967, the National Labor Relations Board granted the request for review and stayed the election. Thereafter, the Intervenor filed a brief in support of the request for review.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the Board has delegated its powers in connection with this case to a three-member panel.

The Board has considered the entire record in this case with respect to the Regional Director's determination under review, including the Intervenor's brief, and finds as follows:

Although the Regional Director found that the Petitioner was not qualified under Section 9(b)(3) of the Act, because of its indirect affiliation with a

labor organization representing nonguards, to be certified as the statutory representative of the guard unit herein, he nevertheless ordered an election on its petition, stating that in the event it won the election only the arithmetical results would be certified. In so doing, the Regional Director relied upon the *William J. Burns* case (138 NLRB 449) wherein the Board directed an election on a petition filed by a union which qualified to be certified as the representative of a guard unit and also placed on the ballot the name of the incumbent union which was not so qualified, with the caveat that only the arithmetical results would be certified if the latter won the election.

Clearly, the cited case is not here applicable, for the petitioning union therein was qualified under the Act to invoke the statutory processes thereof to resolve the question concerning representation in the guard unit through the election process. In placing the nonqualified incumbent union on the ballot for the stated limited purpose of computing an arithmetical result, the Board merely held that in connection with a properly directed election such action was not proscribed by Section 9(c)(3). However, there is no warrant under the Act to expend the Board's resources to resolve an alleged question concerning representation raised by a labor organization, like the Petitioner, which cannot be certified under the Act as a statutory representative.²

Accordingly, we find no question concerning representation within the meaning of the Act and shall dismiss the petition herein.

ORDER

It is hereby ordered that the petition filed herein be, and it hereby is, dismissed.

¹ International Union United Plant Guard Workers of America (UPGWA) and its Local No. 112, intervened on the basis of its contractual interest in the unit.

² *Schenley Distilleries, Inc.*, 77 NLRB 468; *General Motors Corporation*, 77 NLRB 1029; *Willcox Construction Co., Inc.*, 87 NLRB 371,

373-374; *The Magnavox Company*, 97 NLRB 1111. See also *International Harvester Co., Wisconsin Steel Works*, 145 NLRB 1747, 1751, where the Board granted a motion to revoke certification of a union which, subsequent to certification, became indirectly affiliated with a nonguard union. The cases cited by the Regional Director are inapposite.