

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

THE BOEING COMPANY

and

Case No. 19-CA-32431

INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS
DISTRICT LODGE 751, affiliated with
INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS

ORDER

On June 1, 2011, three individuals – Dennis Murray, Cynthia Ramaker, and Meredith Going, Sr. – filed a joint motion to intervene in the above-captioned case. These individuals state that they are current employees of The Boeing Company working in Boeing’s North Charleston facility or other related facilities located nearby. They claim to have “a direct and tangible stake in the outcome of this case because their employment will almost certainly be affected or even terminated if the General Counsel's proposed remedy is imposed.” Motion to Intervene, p. 3.

By order dated June 2, 2011, the Regional Director for Region 19 referred the motion to Administrative Law Judge Clifford H. Anderson for disposition. Thereafter, Judge Anderson issued an Order providing the parties an opportunity to submit statements of position on the Motion to Intervene. The Boeing Company supported the motion to intervene based upon the putative intervenors’ “direct interest in the outcome of the case.” The Acting General Counsel and the International Association of Machinists and Aerospace Workers District Lodge 751 opposed the motion to intervene on the grounds, inter alia, that the putative intervenors have no legally cognizable interest in the case. However, the AGC and District Lodge 751 indicated that

they do not object to the putative intervenors being allowed to file a post-hearing brief on their own behalf.

On June 8, 2011, Judge Anderson issued a ruling denying the motion to intervene. In rejecting the putative intervenors' request, the Judge reasoned, *inter alia*, that the putative intervenors "have no protected or direct interest in the instant case." Ruling on Motion to Intervene, p. 8. In addition, the judge found that the existing parties would insure that "all the relevant issues under the complaint and the proposed remedy are rigorously dealt with" and that even granting limited intervention "would both further complicate and protract and delay the proceeding." Ruling on Motion to Intervene, p. 8.

On June 9, 2011, individuals Murray, Ramaker, and Going filed a Request for Special Permission to Appeal the Judge's ruling denying the motion to intervene. In urging the Board to overrule the Judge's ruling below, they argue, *inter alia*, that the Judge erred in finding that they have no "legally significant" or "direct interest" in the proceeding and in finding that their participation would further "complicate and protract and delay" the proceeding. In this regard, they assert:

The Intervenor recognize and stress again in this Appeal, as they did in their Reply, that they have neither the ability nor the intent to make the arguments, scrutinize the evidence, or involve themselves in the trial examination and cross-examination of the parties' witnesses in which the other parties will necessarily need to engage to make or rebut the AGC's case.

The Intervenor do not wish to make Boeing's case. They have a different case to make: that the AGC's prosecution and proposed remedy implicates their Section 7 rights. To that end, the Intervenor's participation will not "complicate and protract and delay" the proceedings. At most, the presentation of their evidence will consume one-half to one trial day. Intervenor's Appeal of Ruling Denying Motion to Intervene, p. 6.

On June 13, 2011, the judge granted in part and denied in part a motion by the attorneys general of 16 states to file a brief as *amicus curiae* in the instant case. The judge limited the

subject of the brief to “the issue of the appropriate remedy, should the allegations of the complaint be sustained in whole or in part.” Ruling on Motion to File Amicus Curiae Brief at 4.

Having duly considered the matter, we grant the request for special permission to appeal. On the merits, we grant in part and deny in part the appeal. In the unique circumstances of this case, we find that the three individuals have articulated a sufficient interest in this proceeding to grant them limited intervention solely for the purpose of filing a post-hearing brief with the administrative law judge. However, this order grants the limited intervenors no other rights in relation to this proceeding.¹ Accordingly,

IT IS ORDERED that the appeal is granted in part and denied in part, and the administrative law judge’s ruling is modified to the extent that the three individuals, Murray, Ramaker, and Going, are granted limited intervenor status solely for the purpose of filing a post-hearing brief with the administrative law judge, subject to reasonable limits established by the judge (e.g., as to filing deadline, length, or scope).

Dated, Washington, D.C., June 20, 2011

Wilma B. Liebman, Chairman

Craig Becker, Member

Mark Gaston Pearce, Member

Brian E. Hayes, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

¹ This Order is without prejudice to the right of the Intervenors to file a motion with the judge seeking further participation based upon changed circumstances.