

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

HEARTLAND HUMAN SERVICES

Employer

and

CODY PHILLIPS

Case 14-RD-063069

Petitioner

and

AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES
(AFSCME) COUNCIL 31, AFL-CIO

Union

DECISION AND DIRECTION

The National Labor Relations Board has considered objections to an election held June 4, 2012, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 19 for and 18 against the Union, with one challenged ballot, a number sufficient to affect the results.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the record in light of the exceptions¹ and briefs and has adopted the hearing officer's findings and recommendations.²

¹ In the absence of exceptions, we adopt pro forma the hearing officer's recommendations to overrule Union Objections 3, 5, 6, and the portion of Objection 4 alleging that the Employer

DIRECTION

IT IS DIRECTED that the Regional Director for Region 14 shall, within 14 days from the date of this Decision and Direction, open and count the ballot of employee Richard Beagle. The Regional Director shall then serve on the parties a revised tally of ballots, including the count of the ballot named above. If the revised tally shows that the Union received a majority of the valid votes cast, the Regional Director is directed to issue a certification of representative. If the revised tally shows that the Union did not receive a majority of the valid votes cast, the Regional Director shall set aside the election and order a new election, at such time as the Regional Director deems appropriate.

Dated, Washington, D.C., September 28, 2012.

Mark Gaston Pearce, Chairman

Richard F. Griffin, Jr., Member

Sharon Block, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

engaged in objectionable conduct during a May 24, 2012 conversation with employee Bradley Butts. Also in the absence of exceptions, we adopt pro forma the hearing officer's recommendation to overrule the Union's challenge to the ballot of employee Richard Beagle.² In adopting the hearing officer's recommendation to sustain Union Objection 2, we rely on her finding that employee Linda Shellenbarger's receipt of a threatening letter warranted setting aside the election under the third-party threat standard set forth in *Westwood Horizons Hotel*, 270 NLRB 802 (1984). We thus find it unnecessary to rely on the hearing officer's application of the party-conduct standard. We also do not rely on the hearing officer's finding that the Employer objectionably failed, before the election, to inform employees that it had no involvement in preparing and mailing the threatening letter, as the hearing officer's findings of fact show that the Employer only became aware of the circumstances that caused employees to suspect that the Employer was involved once voting was already underway.