



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 2
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February 18, 2016

Via E-File

NATIONAL LABOR RELATIONS BOARD
Attn. Gary Shinnars, Executive Secretary
1015 Half Street SE
Washington, DC 20570-0001

Re: International Harvest, Inc.
Case Nos. 02-CA-138000, 02-CA-141056,
02-CA-143992.

Dear Mr. Shinnars:

Enclosed please find Counsel for the General Counsel's Exceptions to the Decision of the Administrative Law Judge and supporting Memorandum of Law in the above-referenced matter.

I have also enclosed an affidavit of service. Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jacqueline Tekyi", written over a horizontal line.

Jacqueline Tekyi,
Counsel for the General Counsel

Encl.

**BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 2**

INTERNATIONAL HARVEST, INC.

Respondent

and

Septival Bolt,

an Individual

and

Ashley Quezada

an Individual

**Case Nos. 02-CA-138000,
02-CA-141056
02-CA-143992**

**COUNSEL FOR THE GENERAL COUNSEL’S EXCEPTIONS
TO THE DECISION OF THE ADMINISTRATIVE LAW JUDGE**

Pursuant to Section 102.46 of the National Labor Relations Board's Rules and Regulations, Counsel for the General Counsel, through his attorney Jacqueline Tekyi, hereby excepts to the Decision and Recommended order of Administrative Law Judge Steven Davis, dated January 7, 2016 (“ALJD”). In his decision, Judge Davis dismissed the Complaint in part, finding that although International Harvest, Inc. (“Respondent”) violated Sections 8(a)(1) and 8(a)(3) of the Act by promising benefits to employees if they abandoned support for the Union and by discharging employee Ashley Quezada because of her protected activity, Respondent did not violate 8(a)(1) and 8(a)(3) when it discharged employees Septival Bolt and Denroy Burrell. General Counsel respectfully submits the following Exceptions to the ALJD’s errors in fact and law which led to his failure to find that Respondent’s discharge of Bolt and Burrell violated the Act, and his consequent failure to provide an appropriate remedy.

EXCEPTIONS¹

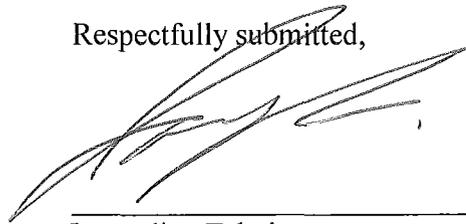
The General Counsel submits the Exceptions listed below to Judge Davis' factual and legal findings on the following allegations: (1) on or about September 26, 2014, Respondent discharged Septival Bolt because Bolt engaged in protected concerted activity (Complaint Paragraphs 7 (a), (b), and (d)); and on or about September 26, 2014, Respondent discharged Denroy Burrell because Respondent believed that Burrell engaged in protected concerted activity (Complaint Paragraphs 7(c) and (e)).

1. The ALJ erred in failing to find that Respondent violated Sections 8(a)(1) and (3) of the Act when it discharged Septival Bolt. In reaching this conclusion the ALJ ignored or generally disregarded evidence of the disparity in Respondent's response to sexual harassment complaints raised against Bolt prior to Bolt's protected activity and its response to similar complaints after it learned of Bolt's protected activity.
2. The ALJ erred in relying on case law that is inapposite to the case at bar, for the proposition that the alleged incidents of a sexual harassing nature served as legitimate grounds for Respondent to discharge Bolt. (ALJD 39:34-52).
3. The ALJ erred in failing to find that Respondent violated Sections 8(a)(1) and (3) when it discharged Denroy Burrell. In reaching this conclusion the ALJ ignored or generally disregarded evidence of the disparity in Respondent's response to allegations of threatening conduct raised against Denroy Burrell prior to his protected activity and its response to an identical allegation after it learned of Burrell's protected activity.
4. The ALJ erred in finding that George Adams only testified to two incidents of threats by Burrell. (ALJD 23: 35-51; 24:1-6; 25:6-11).

¹ Citations to the transcript will appear as "TR." followed by the corresponding page and line number(s). Citations to General Counsel and Respondent exhibits will appear as "GC Exh." And "R. Exh.," respectively, followed by the exhibit number. Citations to the Joint Exhibit will reference the specific document, and then "joint Exh." Citations to Judge Davis's decision will appear as "ALJD," followed by the corresponding page and line number(s).

5. The ALJ erred in discrediting Justin Young's testimony that he was aware of numerous prior instances of Burrell making threats to Adam's, but issued no written warnings.
6. The ALJ erred by incorrectly and inadvertently failing to include in his summation of the Complaint, General Counsel's allegation that Respondent discharged employee Ashley Quezada because she engaged in union activity. (ALJD 1:3).
7. The ALJ failed to provide a remedy that reimburses the discriminatees for all search-for-work and work-related expenses.

Respectfully submitted,



Jacqueline Tekyi
Counsel for the General Counsel
National Labor Relations Board
Region 2
26 Federal Plaza, Room 3614

Dated at New York, New York
February 18, 2016