

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

NLRB v. D.A. Nolt, Inc.

D.A. Nolt · No. Nos. 04-2321, 04-2681 · Decided June 22, 2005

SUMMARY

The United States Court of Appeals for the Third Circuit issued an amended judgment enforcing a National Labor Relations Board order against D.A. Nolt, Inc. The judgment required the company to recognize and bargain with the union representing specified residential and commercial roofing employees, cease related unfair labor practices, post notices, and certify compliance.

CASE DETAILS

COURT	United States Court of Appeals for the Third Circuit
WRITING FOR THE COURT	Sloviter, Circuit Judge; Ambro, Circuit Judge; Aldisert, Circuit Judge
JURISDICTION	Federal
DECIDED	June 22, 2005
DOCKET	Nos. 04-2321, 04-2681
DISPOSITION	other
PROCEDURAL POSTURE	The National Labor Relations Board applied for enforcement of its order against D.A. Nolt, Inc., and D.A. Nolt cross-petitioned for review of the order.
PRECEDENTIAL VALUE	precedential
PARTIES	National Labor Relations Board v. D.A. Nolt, Inc.

TOPICS

labor law collective bargaining unfair labor practices administrative law appellate procedure

PRACTICE AREAS

labor law administrative law appellate procedure remedies

QUESTIONS PRESENTED

1. Whether the National Labor Relations Board's order requiring D.A. Nolt, Inc. to cease refusing to recognize and bargain with the Union and to take affirmative remedial action should be enforced.

2. Whether D.A. Nolt, Inc.'s cross-petition for review of the National Labor Relations Board's order should be granted.

HOLDINGS

1. The National Labor Relations Board order was enforced insofar as it required D.A. Nolt, Inc. to cease refusing to recognize and bargain with the Union, recognize the Union in the specified residential and commercial units, bargain concerning the residential unit, post the required notice, and certify compliance.

KEY QUOTATIONS

“This cause came to be heard upon an application filed by the National Labor Relations Board, to enforce an order of the National Labor Relations Board”

“Refusing to recognize and bargain with the Union as the exclusive collective-bargaining representative of its employees”

FACTUAL BACKGROUND

D.A. Nolt, Inc., a roofing company in Berlin, New Jersey, was subject to a National Labor Relations Board order concerning residential and commercial roofing employees. The amended judgment required the company to recognize the Union as the exclusive collective-bargaining representative for specified residential and commercial bargaining units and to bargain concerning the residential unit. The judgment also required the company to cease interfering with employees' rights under Section 7 of the National Labor Relations Act and to post and certify compliance notices.

PROCEDURAL HISTORY

The National Labor Relations Board issued an order on December 15, 2003, in Board Case Nos. 4-CA-30325-1 and 4-CA-30325-2. The Board sought enforcement in the Third Circuit, while D.A. Nolt sought review. After oral argument on February 14, 2005, the court issued an opinion on May 4, 2005, followed by the amended judgment dated June 22, 2005.

DISPOSITION

other

OPINION

PER CURIAM.

Opinions of the United States Court of Appeals for the Third Circuit 6-22-2005
NLRB v. DA Nolt Inc Precedential or Non-Precedential: Precedential Docket No. 04-2321 Follow
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It has been accepted for inclusion in 2005 Decisions by an authorized administrator of Villanova University School of Law Digital Repository. For more information, please contact Benjamin.Carlson@law.villanova.edu. UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT Nos. 04-2321, 04-2681 NATIONAL LABOR RELATIONS BOARD Petitioner/Cross-Respondent v. D.A. NOLT, INC. Respondent/Cross-Petitioner Application for Enforcement and Cross-Petition for Review of an Order of the National Labor Relations Board (Nos.

4-CA-30325-1, 4-CA-30325-2) Argued: February 14, 2005 Before: SLOVITER, AMBRO and ALDISERT, Circuit Judges AMENDED JUDGMENT _____ This cause came to be heard upon an application filed by the National Labor Relations Board, to enforce an order of the National Labor Relations Board in Board Case Nos. 4-CA-30325-1 and 4-CA-30325-2, issued against said Respondent, D.A.

Nolt, Inc., its officers, agents, successors, and assigns, on December 15, 2003, and upon a cross-petition for review of said Order filed by Respondent. The Court heard argument of respective counsel on February 14, 2005, and has considered the briefs and transcript of record filed in this cause.

On May 4, 2005, the Court handed down its opinion. In conformity therewith, it is hereby ORDERED AND ADJUDGED by the Court that the Respondent, D.A. Nolt, Inc., Berlin, New Jersey, its officers, agents, successors, and assigns, shall 1. Cease and desist from a. Refusing to recognize and bargain with the Union as the exclusive collective- bargaining representative of its employees in the following appropriate units: i. Residential unit: All journeymen roofers, helpers, foremen and all employees performing residential re-roofing, and slate, tile and shingle work on any job or project within the jurisdiction of the Union; excluding office clerical personnel, principals, guards and supervisors as defined in the Act. ii.

Commercial unit: All journeymen roofers, apprentices and foremen and all employees performing commercial roofing work within the jurisdiction of the Union. b. In any like or related manner interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed them by Section 7 of the Act. 2. Take the following affirmative action necessary to effectuate the policies of the Act. a. Recognize the Union as the exclusive collective-bargaining representative of the employees in the above-described residential and commercial units. b. On request, bargain with the Union as the exclusive representative of its employees in the residential bargaining unit, set forth above, concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement. c. Within 14 days after service by the

Region, post at its facility in Berlin, New Jersey, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 4, after being signed by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted.

Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since May 1, 2001. d. Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

IT IS FURTHER ADJUDGED AND ORDERED that the parties shall bear their own costs. Attest:

_____ Clerk DATED: June 22, 2005