

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Murphy v. Hogan Transports, Inc.

607 F. App'x 70 (2d Cir. 2015) · No. 15-317-cv · Decided June 9, 2015

SUMMARY

The Second Circuit affirmed a district court order granting an interim bargaining order and additional temporary injunctive relief under Section 10(j) of the National Labor Relations Act. The court held that the district court acted consistently with the appellate court's prior remand and did not abuse its discretion in finding the relief just and proper.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Robert D. Sack; Peter W. Hall; Susan L. Carney
JURISDICTION	Federal
DECIDED	June 9, 2015
DOCKET	15-317-cv
DISPOSITION	affirmed
PROCEDURAL POSTURE	Hogan Transports, Inc. appealed the Northern District of New York's order granting the Acting Regional Director of the National Labor Relations Board an interim bargaining order and additional temporary injunctive relief under § 10(j) of the National Labor Relations Act.
STANDARD OF REVIEW	Abuse of discretion. The district court's determination whether relief under § 10(j) is just and proper is reviewed for abuse of discretion; such an abuse occurs when the decision rests on an error of law or clearly erroneous factual finding, or when the decision falls outside the range of permissible decisions.
PRECEDENTIAL VALUE	Nonprecedential summary order
PARTIES	Hogan Transports, Inc. v. Paul J. Murphy, Acting Regional Director of the Third Region of the National Labor Relations Board, for and on behalf of the National Labor Relations Board

TOPICS

unfair labor practices

labor law

administrative law

equitable relief

appellate procedure

PRACTICE AREAS

labor law

administrative law

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by issuing an interim bargaining order and additional temporary injunctive relief under § 10(j) of the National Labor Relations Act.
2. Whether the interim bargaining order was just and proper in light of the serious violations, the administrative law judge's findings, and the expected duration of the NLRB proceedings.

HOLDINGS

1. The district court did not abuse its discretion and acted within the range of permissible decisions by issuing the interim bargaining order in favor of the NLRB.

KEY QUOTATIONS

“We conclude that the district court acted in accord with our October 14, 2014 summary order and did not exceed the bounds of its discretion by issuing an interim bargaining order in favor of the NLRB.”

“A district court abuses its discretion “when (1) its decision rests on an error of law (such as application of the wrong legal principle) or a clearly erroneous factual finding, or (2) its decision—though not necessarily the product of a legal error or a clearly erroneous factual finding—cannot be located within the range of permissible decisions.””

FACTUAL BACKGROUND

The NLRB's Acting Regional Director sought interim relief under § 10(j) of the National Labor Relations Act based on serious labor-law violations found by the district court. The requested relief included an interim bargaining order and additional temporary injunctive relief while the NLRB proceedings continued. After remand, the district court reconsidered the bargaining order in light of the prior appellate instructions and subsequent administrative law judge findings.

PROCEDURAL HISTORY

The district court granted interim bargaining and other temporary injunctive relief in favor of the NLRB's Acting Regional Director. In an earlier appeal, the Second Circuit remanded for the district court to reconsider and explain whether an interim bargaining order was just and proper in light of the serious violations, the administrative law judge's findings, and the timing of the NLRB proceedings. On remand, the district court again issued the interim bargaining order, and the Second Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Murphy ex rel. N.L.R.B. v. Hogan Transports, Inc., 581 F. App'x 36, 38 (2d Cir. 2014)
- Hoffman ex rel. N.L.R.B. v. Inn Credible Caterers, Ltd., 247 F.3d 360, 364 (2d Cir. 2001)
- In re Holocaust Victim Assets Litig., 424 F.3d 158, 165 (2d Cir. 2005)

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