

SUPREME COURT OF THE UNITED STATES

Communications Workers of America, AFL-CIO v. National Labor Relations Board

362 U.S. 479 (1960) · No. No. 418 · Decided June 27, 1960

SUMMARY

The Supreme Court reviewed an NLRB cease-and-desist order finding that petitioner unions violated § 8(b)(1)(A) of the National Labor Relations Act. The Court held that extending the order to employees of “any other employer” was unwarranted because the violations found involved only Ohio Consolidated Telephone Company, and it modified and affirmed the judgment.

CASE DETAILS

COURT	Supreme Court of the United States
JURISDICTION	Federal
DECIDED	June 27, 1960
DOCKET	No. 418
DISPOSITION	other
PROCEDURAL POSTURE	The unions petitioned for review of a National Labor Relations Board order, and the Court granted certiorari to review the Sixth Circuit's enforcement of the order after modifying it.
STANDARD OF REVIEW	The Supreme Court reviewed the validity and permissible scope of the NLRB's remedial order.
PRECEDENTIAL VALUE	published precedential Supreme Court opinion
PARTIES	Communications Workers of America, AFL-CIO, et al. v. National Labor Relations Board

TOPICS

- unfair labor practices
- labor law
- administrative law
- judicial review of agency action
- appellate procedure

PRACTICE AREAS

- labor law
- administrative law
- unfair labor practices

QUESTIONS PRESENTED

1. Whether the NLRB could extend its cease-and-desist order to conduct involving employees of any other employer when the unions had been found to have violated the Act only with respect to Ohio Consolidated Telephone Company.
2. Whether the order, after deletion of the phrase "in any manner" by the Sixth Circuit, was valid as applied to the phrase "or any other employer."

HOLDINGS

1. The NLRB may not generally restrain unlawful practices involving other employers that it neither found to have occurred nor persuasively related to the proven unlawful conduct.
2. The phrase "or any other employer" was unwarranted and had to be deleted from the NLRB's order; the order was affirmed as so modified.

KEY QUOTATIONS

"It would seem . . . clear that the authority conferred on the Board to restrain the practice which it has found . . . to have [been] committed is not an authority to restrain generally all other unlawful practices which it has neither found to have been pursued nor persuasively to be related to the proven unlawful conduct." (362 U.S. at 480-81)

"We therefore conclude that the inclusion in the order of the words "or any other employer" was unwarranted and the order is modified by striking the same therefrom. As so modified, the judgment is affirmed." (362 U.S. at 481)

FACTUAL BACKGROUND

During a strike against Ohio Consolidated Telephone Company, the petitioner unions coerced employees in exercising their rights to refrain from or discontinue participation in the strike. The NLRB found a violation of § 8(b)(1)(A) and issued a cease-and-desist order covering coercion of employees of Ohio Consolidated or any other employer. The record did not establish violations against employees of any employer other than Ohio Consolidated, although employees loaned from affiliated companies were involved at the struck plant.

PROCEDURAL HISTORY

The NLRB found that the petitioner unions violated § 8(b)(1)(A) of the National Labor Relations Act by coercing employees during a strike. The Sixth Circuit enforced the Board's order after deleting the words "in any manner," and the Supreme Court granted certiorari based on an asserted conflict with a Fifth Circuit decision. The Supreme Court further modified the order by striking the phrase "or any other employer" and affirmed it as modified.

DISPOSITION

other

REMAND INSTRUCTIONS

The order was modified by striking the words "or any other employer" and, as modified, affirmed. No remand was ordered.

CASES CITED

- Labor Board v. Local 926, International Union of Operating Engineers, 267 F.2d 418 (5th Cir. 1959)
- Labor Board v. Express Publishing Co., 312 U.S. 426, 433 (1941)
- May Stores Co. v. Labor Board, 326 U.S. 376 (1945)

OPINION

PER CURIAM.

362 U.S. 479 (1960) COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO, ET AL. v. NATIONAL LABOR RELATIONS BOARD. No. 418. Supreme Court of United States. Argued April 18, 1960. Decided May 2, 1960. CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT. J. R. Goldthwaite, Jr. argued the cause for petitioners. With him on the brief were Al Philip Kane, Charles V. Koons and Thomas S. Adair.

Dominick L. Manoli argued the cause for respondent. With him on the brief were Stuart Rothman and Herman M. Levy. PER CURIAM. The Board found that the petitioner unions. during the course of a strike, coerced employees of the Ohio Consolidated Telephone Company in the exercise of their right to refrain from or discontinue participation therein, in violation of § 8 (b) (1) (A) of the National Labor Relations *480 Act.[1] It entered an order requiring the unions to cease and desist "from in any manner restraining or coercing employees of Ohio Consolidated Telephone Company or any other employer in the exercise of the rights guaranteed in Section 7 of the Act."

(Emphasis supplied.) The Court of Appeals enforced the order after deleting the words "in any manner." 266 F.2d 823. Because of an asserted conflict with the decision of the Court of Appeals for the Fifth Circuit in Labor Board v. Local 926, Int. Union of Operating Engrs., 267 F.2d 418, we brought the case here. 361 U.S. 893.

The only challenge here to the order as so amended is to its validity as extended to "any other employer," as well as the telephone company. Petitioners were not found to have engaged in violations against the employees of any employer other than Ohio Consolidated and we find neither justification nor necessity for extending the coverage of the order generally by the inclusion therein of the phrase "any other employer."

"It would seem... clear that the authority conferred on the Board to restrain the practice which it has found... to have [been] committed is not an authority to restrain *481 generally all other unlawful practices which it has neither found to have been pursued nor persuasively to be related to the proven unlawful conduct." Labor Board v. Express Pub. Co., 312 U.S. 426, 433 (1941).

See also *May Stores Co. v. Labor Board*, 326 U.S. 376 (1945). That loaned employees of other affiliated companies were included within the ambit of petitioners' coercive acts plainly does not evidence such a generalized scheme against all telephone employers, for it was only the employment of such employees at the struck plant that brought them within the scope of the unions' activities.[2] We therefore conclude that the inclusion in the order of the words "or any other employer" was unwarranted and the order is modified by striking the same therefrom.

As so modified, the judgment is affirmed. Modified and affirmed. NOTES [1] That section reads in pertinent part: SEC. 8(b). "It shall be an unfair labor practice for a labor organization or its agents "(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 7...." 61 Stat. 141. Section 7 provides: "Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8 (a) (3)."

61 Stat. 140. [2] In the Court of Appeals, the Board sought to justify the breadth of its order by relying on two compromise settlement agreements involving activities of the International and other locals against other employers. Neither the opinion of the Board nor that of the Court of Appeals in this case indicates that any reliance was placed on such agreements. and in this Court the Board disclaims any such reliance.