

SUPREME COURT OF THE UNITED STATES

Eastex, Inc. v. National Labor Relations Board

437 U.S. 556 (1978) · No. No. 77-453 · Decided June 22, 1978

SUMMARY

The Supreme Court held that employees’ distribution of a union newsletter addressing union solidarity, right-to-work laws, and the federal minimum wage constituted concerted activity for the purpose of mutual aid or protection under § 7 of the National Labor Relations Act. The Court further held that, absent evidence of interference with plant discipline or production, the employees could distribute the newsletter in nonworking areas of the employer’s property during nonworking time under the rule of Republic Aviation.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Justice Powell; Chief Justice Burger; Justice Brennan; Justice Marshall; Justice Rehnquist; Justice Stewart; Justice White; Justice Blackmun
JURISDICTION	Federal
DECIDED	June 22, 1978
DOCKET	No. 77-453
DISPOSITION	affirmed
PROCEDURAL POSTURE	The National Labor Relations Board found that Eastex violated § 8(a) (1) of the National Labor Relations Act by refusing to permit employees to distribute a union newsletter in nonworking areas during nonworking time. The Fifth Circuit enforced the Board's order. The Supreme Court granted certiorari and affirmed.
STANDARD OF REVIEW	The Court reviewed whether the Board erred in determining that the newsletter distribution was protected concerted activity under § 7 and whether the Board properly applied the Republic Aviation rule to distribution on the employer's property. The Court accorded the Board discretion in applying the mutual-aid-or-protection standard to particular activities.
PRECEDENTIAL VALUE	binding
PARTIES	Eastex, Inc. v. National Labor Relations Board

TOPICS

labor law

unfair labor practices

union organizing

administrative law

statutory interpretation

PRACTICE AREAS

labor law

unfair labor practices

administrative law

employment law

QUESTIONS PRESENTED

1. Whether employees' concerted efforts to oppose incorporation of a right-to-work statute into the state constitution and to support an increase in the federal minimum wage constituted activity for the purpose of mutual aid or protection under § 7 of the National Labor Relations Act.
2. Whether employees could distribute the newsletter in nonworking areas of the employer's property during nonworking time under the Republic Aviation rule when the employer did not show interference with plant discipline or production.

HOLDINGS

1. Concerted employee activity aimed at improving employees' terms and conditions of employment or otherwise improving their lot as employees may fall within § 7's protection even when pursued through legislative or political channels outside the immediate employee-employer relationship. The newsletter's right-to-work and minimum-wage sections were protected activity for mutual aid or protection.
2. Under the circumstances presented, the Board properly applied the Republic Aviation rule to permit employees to distribute the newsletter in nonworking areas during nonworking time. Because Eastex did not show that the distribution would interfere with plant discipline or production, its refusal to permit the distribution violated § 8(a)(1).

KEY QUOTATIONS

"For this reason, we confine our holding to the facts of this case." (437 U.S. at 575-576)

"In these circumstances, we hold that the Board did not err in applying the Republic Aviation rule to the facts of this case." (437 U.S. at 576)

FACTUAL BACKGROUND

Eastex employees represented by Local 801 sought to distribute a union newsletter in nonworking areas of the company's Texas plant during nonworking time. The newsletter urged union support, opposed constitutional incorporation of Texas's right-to-work law, criticized a presidential veto of a federal minimum-wage increase, and encouraged employees to register and vote. Eastex refused permission without showing that distribution would interfere with plant discipline or production, and the Board found that the refusal violated the employees' rights under § 7 of the National Labor Relations Act.

PROCEDURAL HISTORY

Local 801 filed an unfair-labor-practice charge after Eastex refused permission for employees to distribute the newsletter. The Administrative Law Judge found a violation and issued a cease-and-desist order; the Board affirmed and adopted the recommended order. The Fifth Circuit enforced the Board's order, and the Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- *Hudgens v. NLRB*, 424 U.S. 507 (1976)
- *Central Hardware Co. v. NLRB*, 407 U.S. 539 (1972)
- *NLRB v. Babcock & Wilcox Co.*, 351 U.S. 105 (1956)
- *Republic Aviation Corp. v. NLRB*, 324 U.S. 793 (1945)
- *NLRB v. Washington Aluminum Co.*, 370 U.S. 9 (1962)
- *Phelps Dodge Corp. v. NLRB*, 313 U.S. 177 (1941)
- *NLRB v. Leslie Metal Arts Co.*, 509 F.2d 811 (6th Cir. 1975)
- *Shelly & Anderson Furniture Mfg. Co. v. NLRB*, 497 F.2d 1200 (9th Cir. 1974)
- *NLRB v. Bretz Fuel Co.*, 210 F.2d 392 (4th Cir. 1954)
- *G&W Electric Specialty Co. v. NLRB*, 360 F.2d 873 (7th Cir. 1966)
- *NLRB v. Magnavox Co.*, 415 U.S. 322 (1974)
- *Letter Carriers v. Austin*, 418 U.S. 264 (1974)
- *Electrical Workers v. NLRB*, 366 U.S. 667 (1961)
- *NLRB v. Fansteel Metallurgical Corp.*, 306 U.S. 240 (1939)