

SUPREME COURT OF ILLINOIS

County of Du Page v. Illinois Labor Relations Board

County of Du Page v. Illinois Labor Relations Board · No. 105395 · Decided December 18, 2008

SUMMARY

The Illinois Supreme Court reviewed the Illinois Labor Relations Board’s certification of the Metropolitan Alliance of Police as the exclusive bargaining representative for deputy sheriffs employed by Du Page County and the sheriff. The court held that section 9(a-5) of the Illinois Public Labor Relations Act permits the Board to rely on dues-deduction authorization or other evidence of majority support, rather than requiring both forms of evidence. The court reversed the appellate court’s judgment invalidating the Board’s regulation and certification on that ground and remanded for further review.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Chief Justice Fitzgerald; Justice Freeman; Justice Kilbride; Justice Burke; Justice Thomas; Justice Garman; Justice Karmeier
JURISDICTION	Illinois
DECIDED	December 18, 2008
DOCKET	105395
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Illinois Labor Relations Board and the union appealed from an appellate court judgment vacating the Board's certification of the union as the exclusive bargaining representative for a unit of Du Page County deputy sheriffs. The Illinois Supreme Court reviewed the interpretation of section 9(a-5) of the Illinois Public Labor Relations Act, the confidentiality and reviewability of majority-interest evidence, the bargaining-unit issue, and an attorney-fee award.
STANDARD OF REVIEW	Questions of statutory construction and other legal issues are reviewed de novo. Administrative factual determinations are reviewed under the applicable administrative-review standard, including manifest-weight review where applicable.
PRECEDENTIAL VALUE	Published Illinois Supreme Court majority opinion; binding statewide precedent.

PARTIES

Illinois Labor Relations Board, State Panel, Metropolitan Alliance of Police, Du Page County Sheriff's Police Chapter #126 v. County of Du Page, Sheriff of Du Page County

TOPICS

labor law

collective bargaining

statutory interpretation

administrative law

judicial review of agency action

PRACTICE AREAS

labor law

administrative law

employment law

QUESTIONS PRESENTED

1. Whether section 9(a-5) of the Illinois Public Labor Relations Act requires both dues-deduction authorization evidence and other evidence to establish majority interest.
2. Whether the Board's regulation allowing majority interest to be shown through authorization cards, petitions, or any other evidence conflicts with section 9(a-5).
3. Whether an employer is entitled to review the union's evidence of majority support in a section 9(a-5) certification proceeding or on judicial review.
4. Whether the proposed bargaining unit was appropriate.
5. Whether the appellate court's attorney-fee award was proper after the court invalidated the Board's regulation.

HOLDINGS

1. The word "and" in the phrase "dues deduction authorization and other evidence" means "or" in context. Section 9(a-5) therefore does not require a union to submit both forms of evidence to establish majority interest.
2. The Board's regulation, 80 Ill. Adm. Code §1210.80(d)(2)(A), is not invalid merely because it does not require dues-deduction authorization evidence; it is consistent with section 9(a-5)'s authorization of either dues-deduction evidence or other sufficient evidence.
3. An employer is not entitled to review the union's evidence of majority support and may not litigate the Board's determination that the union enjoys majority status, except as permitted by the statute, including claims of fraud or coercion.
4. The appellate court must consider the Employer's challenge to the appropriateness of the proposed bargaining unit because it did not reach that issue after vacating the Board's certification order.
5. The appellate court's attorney-fee award to the Employer must be vacated because the underlying invalidation of the Board's regulation was erroneous.

KEY QUOTATIONS

“We hold that the word “and,” as used in the phrase “dues deduction authorization and other evidence,” was intended by the legislature to mean “or.”” (at 12)

“In sum, we hold that section 9(a–5) precludes an employer from litigating the Board’s determination that a union enjoys majority status and, consequently, that an employer is not entitled to review the evidence of majority support.” (at 18)

“Reversed; cause remanded.” (at 20)

FACTUAL BACKGROUND

The Metropolitan Alliance of Police filed a majority-interest petition seeking certification as the exclusive representative of specified Du Page County deputy sheriffs. The Board found 189 employees in the proposed unit, 111 valid cards supporting MAP, and no allegations or findings of fraud or coercion; 14 cards were invalid for other reasons. The Employer challenged the statutory interpretation, the Board's regulations, access to the supporting evidence, and the composition of the bargaining unit.

PROCEDURAL HISTORY

MAP filed a majority-interest petition with the Board seeking certification without an election. The Board certified MAP after finding that 111 of 189 employees had submitted valid cards and rejecting the Employer's statutory, evidentiary, and bargaining-unit objections. On administrative review, the appellate court vacated the certification, held the Board's regulation invalid, required disclosure of majority-interest evidence for meaningful judicial review, and awarded attorney fees to the Employer. The Illinois Supreme Court reversed the appellate court's judgment, remanded for consideration of the bargaining-unit issue, and reversed the fee award.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the appellate court judgment vacating the Board's certification order and remand to the appellate court to consider the Employer's challenge to the appropriateness of the bargaining unit. Reverse the appellate court's attorney-fee order; the Supreme Court specifically vacated the December 4, 2007, order awarding fees.

CASES CITED

- Harrisonville Telephone Co. v. Illinois Commerce Comm'n, 212 Ill. 2d 237, 247, 251 (2004)
- Alternate Fuels, Inc. v. Director of the Illinois Environmental Protection Agency, 215 Ill. 2d 219, 237-38 (2005)
- Williams v. Staples, 208 Ill. 2d 480, 487 (2003)
- In re Detention of Lieberman, 201 Ill. 2d 300, 308 (2002)
- General Motors Corp. v. State of Illinois Motor Vehicle Review Board, 224 Ill. 2d 1, 13 (2007)
- People v. Collins, 214 Ill. 2d 206, 214 (2005)

- *People v. A Parcel of Property Commonly Known as 1945 North 31st Street, Decatur, Macon County, Illinois*, 217 Ill. 2d 481, 500-01 (2005)
- *Jarvis v. South Oak Dodge, Inc.*, 201 Ill. 2d 81, 87-88 (2002)
- *Sturgeon Bay, Etc. Ship Canal & Harbor Co. v. Leatham*, 164 Ill. 239, 243 (1896)
- *John P. Moriarty, Inc. v. Murphy*, 387 Ill. 119, 129-30 (1944)
- *People ex rel. Department of Registration & Education v. D.R.G., Inc.*, 62 Ill. 2d 401, 405 (1976)
- *Wade v. City of North Chicago Police Pension Board*, 226 Ill. 2d 485, 511 (2007)
- *People v. Jameson*, 162 Ill. 2d 282, 288 (1994)
- *Lauer v. American Family Life Insurance Co.*, 199 Ill. 2d 384, 388 (2002)
- *Phoenix Bond & Indemnity Co. v. Pappas*, 194 Ill. 2d 99, 106 (2000)
- *Bonoguro v. County Officers Electoral Board*, 158 Ill. 2d 391, 398 (1994)
- *Abrahamson v. Illinois Department of Professional Regulation*, 153 Ill. 2d 76, 97-98 (1992)
- *Andrews v. Kowa Printing Corp.*, 217 Ill. 2d 101, 116 (2005)
- *Johnson v. Marshall Field & Co.*, 57 Ill. 2d 272, 278 (1974)
- *Pacific Molasses Co. v. National Labor Relations Board Regional Office #15*, 577 F.2d 1172, 1182 (5th Cir. 1978)
- *Committee on Masonic Homes of R.W. Grand Lodge v. National Labor Relations Board*, 556 F.2d 214, 221 (3d Cir. 1977)
- *Wright Electric, Inc. v. National Labor Relations Board*, 200 F.3d 1162, 1167 (8th Cir. 2000)
- *Raley's*, 337 N.L.R.B. 719 (2002)
- *American Beef Packers, Inc.*, 187 N.L.R.B. 996, 997 (1971)
- *Stoner Rubber Co.*, 123 N.L.R.B. 1440, 1445 (1959)
- *In re Ryan B.*, 212 Ill. 2d 226, 234 (2004)
- *Greer v. Illinois Housing Development Authority*, 122 Ill. 2d 462, 495-96 (1988)
- *Champaign-Urbana Public Health District v. Illinois Labor Relations Board, State Panel*, 354 Ill. App. 3d 482, 486 (2004)
- *County of Du Page v. Illinois Labor Relations Board, State Panel*, 358 Ill. App. 3d 174, 179 (2005)
- *Waste Management of Illinois, Inc. v. Illinois Pollution Control Board*, 145 Ill. 2d 345, 352-53 (1991)
- *Buenz v. Frontline Transportation Co.*, 227 Ill. 2d 302, 320 (2008)
- *NLRB v. Village IX, Inc.*, 723 F.2d 1360, 1371 (7th Cir. 1983)

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