

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

NAACP, Jefferson County Branch v. McLaughlin

703 F. Supp. 1014 (D.D.C. 1989) · No. Civ. A. No. 82-2315 · Decided January 17, 1989

SUMMARY

The court denied plaintiffs’ request for an order to show cause why the Department of Labor should not be held in civil contempt for certifying Virginia apple growers who allegedly paid wages below the applicable adverse effect rate. It found that the Department made a good-faith effort to comply with the court’s prior injunction while facing conflicting federal court orders. The court also denied a requested remedial order, concluding that the Department’s discretionary decision not to sanction the growers was presumptively unreviewable under the Administrative Procedure Act.

CASE DETAILS

COURT	United States District Court for the District of Columbia
WRITING FOR THE COURT	Charles R. Richey
JURISDICTION	USA
DECIDED	January 17, 1989
DOCKET	Civ. A. No. 82-2315
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved for an order to show cause why the Department of Labor should not be held in civil contempt for violating an injunction governing temporary labor certifications, and alternatively sought a remedial order requiring the Department to withhold certification from certain growers until restitution was made.
STANDARD OF REVIEW	For civil contempt, the court examined whether the injunction provided fair notice and whether mitigating circumstances, including good-faith efforts or inability to comply, warranted mitigation. Agency nonenforcement decisions were reviewed under the Administrative Procedure Act framework, including the presumption that decisions not to take enforcement action are committed to agency discretion and are immune from judicial review absent meaningful statutory or regulatory standards.
PRECEDENTIAL VALUE	Published federal district court opinion

PARTIES

NAACP, Jefferson County Branch, et al. v. The Honorable Ann McLaughlin, Secretary, United States Department of Labor, in her official capacity, et al.

TOPICS

judicial review of agency action

administrative law

immigration

contempt

remedies

PRACTICE AREAS

administrative law

immigration

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether the Department of Labor should be held in civil contempt for granting temporary labor certification to growers who paid wages below the adverse-effect rate in violation of this court's injunction.
2. Whether plaintiffs were entitled to a remedial order requiring the Department of Labor to deny future labor certification to the growers until they provided restitution.
3. Whether the Department of Labor's investigation was governed by the Job Service Complaint System regulations.
4. Whether the Department of Labor's discretionary decision not to sanction the growers was subject to judicial review under the Administrative Procedure Act.

HOLDINGS

1. The court denied the request for an order to show cause because, although the Department of Labor violated the injunction by granting certification to the Virginia growers, the Department made a good-faith effort to comply and was faced with conflicting injunctions that created irreconcilable obligations.
2. The plaintiffs' counsel's letters to Department of Labor counsel did not invoke the Job Service Complaint System regulations because they did not state that plaintiffs wished to file job service complaints or that they had exhausted or sought to bypass state or local administrative remedies.
3. The Department of Labor's decision whether to impose sanctions was discretionary rather than mandatory because 20 C.F.R. § 655.210(a) used the term 'may' and supplied no factors that compelled sanctions.
4. The court could not review the Department of Labor's decision not to impose sanctions because the Immigration and Nationality Act and its implementing regulations supplied no judicially manageable standards governing that enforcement decision.

KEY QUOTATIONS

“The language of Paragraph 8 of this Court's Order in NAACP II is unmistakably clear.” (1017)

“The DOL was in the unenviable position of deciding which order to follow; either way, the DOL risked being held in contempt for violating a court order.” (1018)

“The regulation's use of the word "may" rather than "shall" makes the imposition of sanctions on an employer permissive rather than mandatory.” (1019)

“Neither the Immigration and Nationality Act nor its implementing regulations provide the DOL with any guidelines to consider in deciding whether to sanction an employer's violation of the terms of its labor certification.” (1020)

FACTUAL BACKGROUND

The Department of Labor had been enjoined from granting temporary labor certification to employers who failed to pay United States migrant workers wages meeting the applicable adverse-effect rate. In 1986, twenty-four Virginia growers proposed hourly-plus-discretionary-bonus compensation schemes; after the Department initially denied certification, the growers obtained conflicting injunctions from the Western District of Virginia requiring the Department to grant certification. After the harvest, the Department investigated and concluded that Virginia and West Virginia growers had paid wages below the required rate but declined to impose sanctions because of extenuating circumstances, including prior Department approval of a similar compensation scheme and the absence of a clearly defined policy.

PROCEDURAL HISTORY

Plaintiffs, a nationwide class of migrant farm workers, had previously obtained an injunction prohibiting the Department of Labor from granting temporary labor certification to employers who failed to pay United States workers the applicable adverse-effect rate. After the Department certified twenty-four Virginia growers for the 1986 harvest despite wage violations, plaintiffs sought contempt sanctions and remedial relief. The court denied both requests, finding that the Department made a good-faith effort to comply while subject to conflicting federal injunctions and that its discretionary enforcement decision was not judicially reviewable.

DISPOSITION

other

CASES CITED

- NAACP, Jefferson County Branch v. Donovan, 558 F. Supp. 218 (D.D.C. 1982)
- NAACP, Jefferson County Branch v. Donovan, 566 F. Supp. 1202, 1210 (D.D.C. 1983)
- NAACP, Jefferson County Branch v. Donovan, 737 F.2d 67 (D.C. Cir. 1984)
- GTE Sylvania, Inc. v. Consumers Union of the United States, Inc., 445 U.S. 375, 386 (1980)
- Schmidt v. Lessard, 414 U.S. 473, 476 (1974)
- Common Cause v. Nuclear Regulatory Commission, 674 F.2d 921, 927 (D.C. Cir. 1982)
- NAACP, Jefferson County Branch v. Brock, 619 F. Supp. 846, 850 (D.D.C. 1985)
- SEC v. Ormont Drug and Chem. Co., 739 F.2d 654, 656-57 (D.C. Cir. 1984)

- WMATA v. Amalgamated Transit Union Local Division 689, 531 F.2d 617, 621 (D.C. Cir. 1976)
- Natural Resources Defense Counsel, Inc. v. Train, 510 F.2d 692, 713 (D.C. Cir. 1975)
- Brotherhood of Locomotive Firemen & Enginemen v. Bangor & A.R. Co., 380 F.2d 570, 581 (D.C. Cir.), cert. denied, 389 U.S. 327 (1967)
- Maggio v. Zeitz, 333 U.S. 56, 77 (1948)
- Heckler v. Chaney, 470 U.S. 821, 828, 830-33 (1985)
- NAACP, Western Region v. Hodgson, 57 F.R.D. 81 (D.D.C. 1972)
- NAACP, Western Region v. Brennan, 360 F. Supp. 1006 (D.D.C. 1973)
- Frederick County Fruit Growers Ass'n, Inc. v. Brock, 703 F. Supp. 1021 (D.D.C. 1989)

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