

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

San Francisco-Oakland Newspaper Guild v. Kennedy

412 F.2d 541 (9th Cir. 1969) · Decided June 4, 1969

SUMMARY

The Ninth Circuit affirmed preliminary and supplemental injunctions issued under Section 10(l) of the National Labor Relations Act against labor organizations alleged to have engaged in a secondary boycott. The court held that the district court had reasonable cause to believe the targeted newspapers and printing company were neutral employers and did not abuse its discretion by limiting discovery or deciding the injunction motion on affidavits and oral argument.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	James M. Carter
JURISDICTION	Federal
DECIDED	June 4, 1969
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from district-court orders granting the National Labor Relations Board's petition for a preliminary injunction under section 10(l) of the National Labor Relations Act.
STANDARD OF REVIEW	The court reviews the district court's factual findings for clear error and reviews its procedural rulings concerning discovery and the presentation of evidence for abuse of discretion.
PRECEDENTIAL VALUE	Published Ninth Circuit opinion; precedential
PARTIES	San Francisco-Oakland Newspaper Guild, Appellant labor organizations v. Ralph E. Kennedy, Regional Director of Region 21 of the National Labor Relations Board

TOPICS

- unfair labor practices
- labor law
- injunctions
- administrative law
- appellate procedure

PRACTICE AREAS

- labor law
- administrative law
- employment law
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the district court clearly erred in finding reasonable cause to believe that the Herald-Examiner operated independently from the Examiner, the Chronicle, and the Printing Company, making appellants' conduct a prohibited secondary boycott.
2. Whether the district court abused its discretion by denying appellants' requests for discovery, depositions, interrogatories, and attendance of witnesses.
3. Whether the district court abused its discretion by refusing to permit oral testimony concerning allegedly disputed facts at the section 10(l) preliminary-injunction hearing.

HOLDINGS

1. The district court did not clearly err in finding reasonable cause to believe that the Examiner, the Chronicle, and the Printing Company were neutral employers independent of the Herald-Examiner and that appellants' conduct violated section 8(b)(4)(i) and (ii)(B).
2. The district court did not abuse its discretion by denying appellants' requests for depositions, interrogatories, and compelled witness attendance.
3. The district court did not err in refusing to permit oral testimony at the preliminary-injunction hearing because affidavits and oral argument provided appellants a sufficient opportunity to present their case.

KEY QUOTATIONS

“All that is required under Sec. 10(l) for a regional director to petition for such an injunction is reasonable cause to believe an unfair labor practice is being committed.” (545)

“The district court under Sec. 10(l) has the limited function of ascertaining whether reasonable cause exists.” (546)

“We therefore conclude that the district court did not err in refusing to allow oral testimony at the hearing on the preliminary injunction.” (546)

FACTUAL BACKGROUND

The labor organizations initially picketed the Los Angeles plant of the Herald-Examiner during a labor dispute. They later picketed the San Francisco premises of the Examiner, the Chronicle, and the Printing Company in support of that dispute, causing those entities' regular newspaper publication and printing facilities to shut down. The Regional Director concluded there was reasonable cause to believe the conduct violated section 8(b)(4)(i) and (ii)(B), because the San Francisco entities were neutral employers independent of the Herald-Examiner.

PROCEDURAL HISTORY

The Regional Director petitioned the district court for an injunction pending final disposition of unfair-labor-practice charges alleging that the appellants engaged in a secondary boycott. The district court found reasonable cause to believe that the Act had been violated, denied appellants' requests for discovery and witness attendance, declined to hear oral testimony, and entered preliminary-injunction orders on February 7 and 8, 1968. The labor organizations appealed.

DISPOSITION

affirmed

CASES CITED

- Retail Clerks Union, etc. v. Food Employers Council, Inc., 351 F.2d 525 (9th Cir. 1965)
- Local No. 83, Construction, Building Materials and Miscellaneous Drivers Union, etc. v. Jenkins, 308 F.2d 516 (9th Cir. 1962)
- Warehousemen's Union Local 6, etc. v. Hoffman, 302 F.2d 352 (9th Cir. 1962)
- Miami Newspaper Pressmen's Local No. 46 v. N.L.R.B., 322 F.2d 405 (D.C. Cir. 1963)
- Bachman Machine Co. v. N.L.R.B., 266 F.2d 599 (8th Cir. 1959)
- J. G. Roy & Sons Co. v. N.L.R.B., 251 F.2d 771 (1st Cir. 1958)
- Penello v. American Federation of Television and Radio Artists, 291 F. Supp. 409 (D. Md. 1968)
- Alexander Warehouse & Sales Co., 128 N.L.R.B. 916 (1960)
- Hoffritz v. United States, 240 F.2d 109, 111 (9th Cir. 1956)
- Ross-Whitney Corp. v. Smith Kline & French Laboratories, 207 F.2d 190 (9th Cir. 1953)
- McLeod, for and on behalf of N.L.R.B. v. Business Machine and Office Appliance Mechanics Conference Board, 300 F.2d 237 (2d Cir. 1962)
- Slater for and on behalf of N.L.R.B. v. Denver Building and Construction Trades Council, 175 F.2d 608 (10th Cir. 1949)
- Sims v. Greene, 161 F.2d 87, 88 (3d Cir. 1947)
- Baltimore News American Division, The Hearst Corporation, Case No. 5-CC-446 (Trial Examiner Jan. 27, 1969)

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