

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

**Joseph D. Thomas v. United Parcel Service, Inc. and Local 710,
International Brotherhood of Teamsters, Chauffeurs, Warehousemen
and Helpers of America**

890 F.2d 909 (7th Cir. 1989) · No. No. 88-2184 · Decided November 20, 1989

SUMMARY

The Seventh Circuit reviewed a summary judgment ruling in a hybrid § 301/fair-representation action brought by a discharged UPS employee against UPS and his union. The court addressed whether evidence of anti-dissident bias and allegedly deficient grievance handling created genuine issues of material fact concerning the union’s duty of fair representation. It vacated the summary judgment order and remanded the case to the district court.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	Robert A. Grant, Senior District Judge, sitting by designation; William J. Bauer, Chief Judge; Richard D. Cudahy, Circuit Judge
JURISDICTION	Federal
DECIDED	November 20, 1989
DOCKET	No. 88-2184
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Employee appealed the district court's grant of summary judgment to his employer and union in a hybrid Labor Management Relations Act § 301/duty-of-fair-representation action.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The court determines whether genuine issues of material fact exist and, if not, whether the movant is entitled to judgment as a matter of law, drawing reasonable inferences in favor of the nonmovant.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Joseph D. Thomas v. United Parcel Service, Inc., Local 710, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America

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QUESTIONS PRESENTED

1. Whether the district court properly granted summary judgment where evidence allegedly showed that Local 710 intentionally undermined Thomas's grievance because of his political affiliation within the union.
2. Whether union representatives serving on a Joint Grievance Committee owe grievants a duty of fair representation requiring fair and impartial decisions on the merits.
3. Whether evidence of political bias by Joint Grievance Committee members was material to Thomas's hybrid § 301/fair-representation action.

HOLDINGS

1. Union officials serving on a Joint Grievance Committee owe grievants a duty of fair representation, and in that adjudicatory role the duty requires fair and impartial decisions on the merits.
2. An employee must show that union conduct was arbitrary, discriminatory, or in bad faith; under the Seventh Circuit's then-governing standard, the alleged misconduct had to be intentional, invidious, and directed at the employee.
3. Summary judgment for the defendants was improper because the district court failed to consider evidence of anti-TDU bias that could support a finding that the union breached its duty of fair representation.

KEY QUOTATIONS

“We now remedy this gap in our fair representation jurisprudence by declaring that union officials sitting as JGCs owe grievants a duty of fair representation, and that the duty of fair representation, in that context, consists in an obligation to render fair and impartial decisions on the merits.” (923-924)

“In order to establish that a union breached its duty of fair representation, the employee must show that the union conduct was “arbitrary, discriminatory, or in bad faith,” Vaca, 386 U.S. at 190, 87 S.Ct. at 916, for “mere errors in judgment” are insufficient.” (922)

“It is well-established that “the use of forbidden grounds of decision ... creates a legitimate claim of ‘unfair’ representation.”” (923)

FACTUAL BACKGROUND

Thomas worked as an on-call feeder driver for UPS and was discharged after failing to respond to work calls. He grieved the discharge under the collective bargaining agreement, but the Joint Grievance Committee upheld it. Thomas alleged that Local 710 inadequately processed his grievance and that union representatives were

motivated by hostility toward his membership in Teamsters for a Democratic Union. Discovery included evidence of disparate grievance outcomes for dissident and nondissident members, anti-TDU activity by union officials, and alleged failures to investigate and provide requested documents.

PROCEDURAL HISTORY

Thomas was discharged by UPS after failing to respond to work calls. The Joint Grievance Committee upheld the discharge. Thomas sued UPS for breach of the collective bargaining agreement and Local 710 for breach of the duty of fair representation. The Northern District of Illinois granted defendants summary judgment, and Thomas timely appealed. The Seventh Circuit vacated and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the district court's order granting summary judgment to UPS and Local 710 and remand for further proceedings not inconsistent with the opinion, including consideration of the evidence of union bias.

CASES CITED

- Hoffman v. Lonza, Inc., 658 F.2d 519 (7th Cir. 1981)
- Vaca v. Sipes, 386 U.S. 171 (1967)
- Hines v. Anchor Motor Freight, Inc., 424 U.S. 554 (1976)
- United Parcel Service, Inc. v. Mitchell, 451 U.S. 56 (1981)
- DelCostello v. International Brotherhood of Teamsters, 462 U.S. 151 (1983)
- Schultz v. Owens-Illinois, Inc., 696 F.2d 505 (7th Cir. 1982)
- Ford Motor Co. v. Huffman, 345 U.S. 330 (1953)
- Antrim v. Burlington Northern, Inc., 847 F.2d 375 (7th Cir. 1988)
- Adams v. Budd Co., 846 F.2d 428 (7th Cir. 1988)
- Grant v. Burlington Industries, 832 F.2d 76 (7th Cir. 1987)
- Dober v. Roadway Express, Inc., 707 F.2d 292 (7th Cir. 1983)
- Tongay v. Kroger Co., 860 F.2d 298 (8th Cir. 1988)
- Johnson v. Artim Transportation System, Inc., 826 F.2d 538 (7th Cir. 1987)
- Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574 (1986)

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