

DETROIT REVOLUTIONARY MOVEMENT RECORDS

BOX 3 OF 16

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EWSC DISMISSALS NLRB

APPEAL CASE 7 CA 7999 OCT

1970

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

ALONZO CHANDLER, JAMES EDWARDS,
ROBERT MCKEE and JOHN TAYLOR,

vs.

NO. 7-CA-7999

CHRYSLER CORPORATION

APPEAL STATEMENT

The Regional Director's decision dismissing this case is based on the following proposition:

That safety conditions in the employer's Eldon Avenue Gear and Axle Plant were, in fact, not abnormally dangerous, and therefore the charging parties, JOHN TAYLOR, ALONZO CHANDLER, ROBERT MCKEE and JAMES EDWARDS were not entitled to the protection of Section 502 of the Act when they picketed and handbilled the Eldon Plant on May 25 and 26, 1970, protesting unsafe working conditions there.

But the Director's decision rests on a false premise, his failure to apply the statutory criteria. The only demand of the statute is that employees who withhold their employment services in protest of unsafe working conditions have a good faith belief in abnormally dangerous conditions for work at the place of employment. But the Director demands much more; he demands that the charging parties should have had a definitive factual knowledge of the unsafe conditions in the plant. This is not the doctrine of Knight-Morley Corp. v N.L.R.B. 251 F. 2d 753 (CA6, 1957) Cert.-den. 257 U.S. 927 (1958). In that case the Court, in construing the ambit of Sect. 502, stated,

"That section (Section 502) expressly limits the right of management to require continuance of work under what the employees in good faith believe to be 'abnormally dangerous conditions'."

The statutory imperative, then, is a "good faith belief test", not a "fact test" as the Director evidently believes. By his failure to apply the criteria of Section 502, he has entirely excluded any consideration of the experiences and beliefs which motivated the charging parties to picket the plant. A summary of their experiences and activities in the Eldon Plant should more than suffice as evidence of their "good faith belief in abnormally dangerous working conditions at Eldon."

JOHN TAYLOR was employed at the Eldon Plant as a Workmen's Compensation Representative, a management position, from approximately June, 1967, through September 30, 1968. His duties included the following: conduct investigations of in-plant accidents, analyze material facts and medical data, decide liability under the Michigan Workmen's Compensation Act, administer compensation matters. During the course of his employment as Workmen's Compensation Representative, JOHN TAYLOR became familiar with many of the severe safety hazards in the Eldon Avenue Plant, and with the traumatic and debilitating effects industrial accidents have on the lives of the people who work there. He became convinced that the primary (indeed, the only) purpose of the plant Safety Director and the Plant Doctor is to protect Chrysler Corporation's capital investment in the plant by keeping employees on the job and working, injured or not, and not to protect the health and safety of workers as human beings. After resigning his position as Workmen's Compensation Representative, JOHN TAYLOR obtained employment in the Eldon Plant as an hourly rated worker, a Grinder in Department #75. Eventually, he became associated with the Eldon Wildcat, an independent employee publication, and wrote several articles for that bulletin, nearly all of which concerned safety conditions in the plant. The majority of these articles were published prior to JOHN

TAYLOR'S picketing activities on May 26 and 27, 1970. Claimant JOHN TAYLOR, then, points to his experiences in dealing with injured Eldon workers, his familiarity with plant safety conditions, resulting from his position as Workmen's Compensation Representative, and the safety articles he wrote for the Eldon Wildcat as evidence of his good faith belief in abnormally dangerous working conditions in the Eldon Plant.

Claimants ALONZO CHANDER, JAMES EDWARDS and ROBERT MCKEE are active members of E.L.R.U.M. (Eldon Revolutionary Union Movement), a chapter of the League of Revolutionary Black Workers. It has long been the public position of the League and E.L.R.U.M. that one of the many ways black automobile workers are oppressed by Chrysler Corporation, Ford and General Motors is by assigning them to the most dangerous jobs in the plants. Accordingly, claimants, ALONZO CHANDLER, JAMES EDWARDS and ROBERT MCKEE were almost solely responsible for writing, printing and distributing copies of the E.L.R.U.M. publication at the Eldon plant, many of which contained articles describing the unsafe working conditions in the plant under which black workers are forced to earn their living. They participated in this activity for more than a year prior to the events of May 26 and 27, 1970, and point to it as evidence of their good faith belief in abnormally dangerous conditions at Eldon.

The Director has not only failed to apply the statutory criteria to the charging parties' picketing activities, but his conclusion that safety conditions in the Eldon Plant, as a matter of fact, were not abnormally dangerous, is based on an unwarranted credence in the plant's statistical safety record, and his failure to consider all the factors surrounding the deaths of Mamie Williams and Rosa Logan.

* The plant's statistical safety record is compiled monthly and yearly from the plant Safety Director's "Lost Time Report". This report consists of records concerning each worker who has lost time from work due to a plant injury, and whose case is acceptable under a set of severely circumscribed and limited rules and special conditions formulated by and accepted by Chrysler Corporation. Claimant JOHN TAYLOR'S experience as Workmen's Compensation Representative was that many of the plant accident cases for which Workmen's Compensation liability was

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accepted did not appear on the Safety Director's "Lost Time Report" and were, therefore, not harmful to the plant's statistical safety record. This was so because responsibility for many of these cases could be evaded by deeming them not acceptable under the statistical procedures described above. This is one method CHRYSLER management uses to conceal many of the accidents which occur in its plants. Another method of concealment is the device of "favoring work". While employed as Workmen's Compensation Representative, Claimant JOHN TAYLOR learned that in a number of instances injured workers were given "favoring work codings" by the Plant Doctor and ordered to return to work, presumably at jobs within their injury decreased capabilities. In reality, the Safety Director and some of the production foremen would deliberately place these persons on jobs demanding their full physical capabilities, and conceal this tactic from other management personnel including claimant JOHN TAYLOR. Eventually JOHN TAYLOR learned of this situation through complaints of the workers involved, and began personally checking the "favoring jobs" given injured workers. This led to disputes, arguments and an awareness that there was an insufficient number of "favoring jobs" in the plant to accommodate both the injured workers and the Plant Safety Director. It was obvious to Claimant JOHN TAYLOR that the Plant Safety Director resorted to this tactic to protect the plant's safety record, the record upon which the Director relies in dismissing this case. As Workmen's Compensation Representative, Claimant JOHN TAYLOR also learned the Plant Doctor helped protect the plant safety record by "coding" injured workers "PQ", "physically qualified" to do any job in the plant, without actually physically examining the worker. JOHN TAYLOR was able to correct this situation only by informing the Plant Personnel Manager, J. Hefner, and the Power Train Group Medical Director, M. S. Lechner, M.D., that he would consider any "PQ" codings given by the Plant Doctor without a physical examination a nullity, and instead would rely on the findings of the employee's own doctor. Plant statistical safety records subject to concealing tactics and subterfuges such as these do not deserve the confidence of the Director, the Board or the public.

It is the Director's position in dismissing this case that only one of the deaths recently occurring in the Eldon Plant, Gary Thompson's, was the result of plant conditions, and that the other deaths, Mamie Williams and Rose Logan, were not. Rose Logan suffered crushing injuries to her right foot and lower leg when she was struck and run over by a loaded fork lift truck as she emerged from the plant Medical Department into the main aisle. The truck operator failed to look back to be certain the way was clear before he began backing the truck. Safe operation of fork lift trucks is patently an important part of the working conditions in any plant; management accordingly bears a heavy responsibility in training its drivers in correct safety procedures and being certain they are maintained. Other causes of this fatal accident were the cramped space in which the truck driver was forced to maneuver his truck, and the absence of protective iron railings along the main aisle to shield persons walking in it from backing and turning fork lift trucks. Patently, both of these factors were also part of the plant conditions at Eldon that resulted in Mrs. Logan's death. Until she died Rose Logan lost no time from her job because of this accident. The Plant Doctor and the Plant Safety Director decided she was able to perform favoring work and, accordingly, Mrs. Logan was transported daily to and from the plant in a taxi cab, even though she was confined to a wheelchair at all times. Her "favoring work" consisted of janitorial duties in the plant offices performed in her wheelchair. Reportedly, she died of a thrombosis, a condition often associated with thrombo phlebitis which often results from crushing injuries to the extremities. The usual regimen in these cases is almost complete inactivity; but usual medical practice was apparently abandoned in Mrs. Logan's case to protect the plant lost time record. It seems obvious that the presence (or lack of) of a humane, competent Plant Doctor and Plant Safety Director are an integral part of the working conditions in any plant, and this seems especially true when deaths arguably occur because of their activities. But, the Director seems to resist and reject this assertion with no reasons given.

It is also strongly arguable that Mamie Williams died in May, 1970, as a result of plant conditions at Eldon, namely the activities of the Plant Doctor. Mrs. Williams had been on sick leave for a substantial period of time, and was ordered by Eldon Plant Management to return to work or be fired. She underwent a physical examination in the plant medical department which disclosed dangerously high blood pressure. But the Plant Doctor, knowing of her condition, allowed her to return to work. A few days later she was dead, killed by dangerous plant conditions at Eldon, namely the Plant Doctor.

In summary, the Eldon Plant is a plant where the safety records are regularly, in a systematic way, tampered with. The workers, specifically JOHN TAYLOR, knew the way in which the company alters the facts. The Regional Director, however, failed to give cognizance to this special knowledge and relied solely on the company's safety record. Had the Regional Director used the statutory criteria, he would never have made this mistake: a test which relies on the knowledge of those discharged and therefore their good faith in acting to correct unsafe conditions, would properly balance all the facts, without undue reliance on altered statistical data.

In many ways, the Director substituted his limited knowledge for the extensive knowledge of the employees working in the plant, one of whom had spent two years working on management's side. The statutory criteria must be enforced in this case, not only because it is the best polity for enforcing the mandates of the Act, but also because the employees in this particular case had such real, concrete reasons for their actions: one young man had died under three tons of steel; two other workers were prematurely forced to return to work and died as a result thereof. When employees act to correct these conditions, which involve life and death, there must be some protection for them - they are acting with good faith and have a factual basis for their beliefs, what else can be required of them?

The Board, with limited access to the facts, with

limited concepts as to necessary safety to protect lives, should at least provide a hearing and opportunity to prove the good faith factual basis for the claimant's action. Without such protection, we respectfully submit that employees will continue to die on the assembly line and those who protest will continue to be fired for their actions.

Accordingly, claimants respectfully request that the Regional Director's decision be reversed and a complaint issue in this matter.

Respectfully submitted,

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