

DETROIT REVOLUTIONARY MOVEMENT RECORDS

BOX 3 OF 16

FOLDER 24

EWSC DISMISSAL CASE 5428

FIRST DRAFT NOV 1971

 *
 In the Matter of the Discharge of *
 J. Taylor, A. Chandler, and J. Edwards *

R. McKee

CASE NO. 5428

May, 1970, J. Taylor, A. Chandler, R. McKee, and J. Edwards were discharged from the Eldon Avenue Axle plant for allegedly violating Section (5) of the Chrysler-UAW Agreement. The Corporation claims that the four mentioned employees on various occasions on May 27 and May 28, 1970 picketed the plant entrances. The Union will prove that the actions of the named grievants and other employees did stand and walk in front of the plant gates demonstrating and protesting the unsafe working conditions in the plant.

On June 5, 1970 the Union submitted the following grievance in behalf of the four named employees:

per J.U.
 Add: how & why I got involved,
 as a worker. Prior history of concern
 re: safety.

SEP 24 1970

REGION 1 DAY

(J. Taylor,

70-482 - Discharges (D-71, 72, 75, 80) (A. Chandler, J. Edwards, R. McKee)

Date presented: 6- 5- 70 - Presented by: C. Thornton, PSC

GRIEVANCE:

The Union protests the Company's discharge of the above named employees as improper, illegal and completely unjustified.

Approximately a year ago Rose Logan, a janitor, died as a result of a combination of unsafe working conditions and the incompetence and indifference of the plant doctor and plant safety man at the Eldon Avenue Gear and Axle Plant. She was struck in the right lower leg by a jitney driver whose vision was obscured by an improperly loaded skid box. The injury was obviously severe, and the plant Workmen's Compensation Representative recommended she not work until it was healed. However, in order to protect the plant's lost time record the Safety Director and the doctor ordered Mrs. Logan to work. From the date of her injury to the day of her death she was transported to and from the plant by taxi. Each day she performed such work as dusting office furniture and folding towels in the Medical Department. Eventually she developed a thrombophlebitis in her right leg. The usual treatment for such a condition is complete inactivity, but the plant doctor scorned to use obvious medical techniques. The inevitable occurred: a blood clot loosened from her leg and travelled to her heart with fatal results.

May 13, 1970, Mamie Williams, a press operator, with twenty-six years seniority, died as a result of management's callous indifference to human life, and the incompetence of the plant doctor. Mrs. Williams had been on sick leave for a substantial period of time. She received a notice from management to return to work or be fired. She returned to the plant and was examined by the plant doctor. Her blood pressure was too high for her to work; even the plant doctor concurred in this. However, apparently because she was afraid of losing twenty-six years seniority, Mrs. Williams insisted on returning to work, and the doctor agreed. Regardless of Mrs. Williams motive for returning to work, or the vehemence of her pleas, it was an obvious dereliction of duty by the doctor to allow her to return to work knowing of her high blood pressure. She returned to work, was soon carried out of the plant on a stretcher, and a few days later she was dead.

During the second week of May, 1970 the Eldon Worker's Safety Committee, a group of workers concerned about safety in the plant, was formed. The Committee's purpose was to educate workers in the plant concerning the abnormally dangerous working conditions at Eldon, and to inform them of possible methods of alleviating them. A number of leaflets and bulletins were distributed at the plant gates, all emphasizing safety on the job.

At approximately 6:15 a.m., Tuesday, May 26, 1970, Gary Thompson, a twenty-two year old jitney driver, died as a direct result of unsafe conditions in the plant. He was told to empty a hopper of scrap steel weighing three to five tons into a railroad car. In order to open the

hatch of the hopper Thompson was forced to dismount from the jitney and pry at the hopper release catch with a stick. (It is common knowledge the release catches of the hoppers are almost always stuck shut with dirt and rust.) The jitney's emergency brakes were disconnected. (It is common knowledge that almost none of the jitneys at Eldon have working emergency or primary brakes.) Apparently, when the hopper hatch was opened, the load shifted causing the brakeless jitney to roll into a chuck hole in the loading platform. The jitney tipped over crushing Gary Thompson under tons of steel. It is our understanding that all the unsafe conditions that caused Thompson's death--the brakeless jitney, the jammed hopper hatch release catch and the chuck holes in the loading platform--have been the subject of grievances time and time again, and the company has taken no action whatsoever to correct them.

Gary Thompson's death was a result of the very conditions the Eldon Worker's Safety Committee was trying to eliminate. Members of the Committee were convinced other deaths were imminent, and that the abnormally dangerous conditions in the plant must be eliminated immediately. On May 27, 1970 and May 28, 1970 pickets were established to explain how and why Gary Thompson had died, and to explain the imminent danger facing every worker in the plant. At no time did the pickets use such words and phrases as "strike", "shut it down", etc. At all times factual statements such as "unsafe plant" "two murders in two weeks", etc. were used.

The entire program of the Eldon Worker's Safety Committee was consistent with Section 502 of the National Labor Relations Act which stated the withholding of labor in a good faith belief of abnormally dangerous working conditions does not and cannot constitute a strike.

Either through ignorance of basic labor law, or in a wilful and petty spirit of retaliation, management has refused to recognize our sincere good faith position in this matter. May 28, 1970 A. Chandler, J. Edwards, R. McKee and H. J. Taylor each received telegrams from the company informing us we had been discharged for violation of Section 5 of the National Agreement between Chrysler and the UAW in connection with our activities for the Eldon Worker's Safety Committee. Approximately twenty-four hours later we were told to report to a meeting with plant labor relations officials in the plant offices. At this meeting we were given official separation notices, and a report of C. Polsgrove, Labor Relations Director, was read to us. However, Management was unable to produce, on demand, the actual evidence supposedly supporting our discharges, namely the reports of our supervisors ~~thought~~ we were actually seen picketing at the plant gates. This, in spite of management's having had more than ample opportunity to prepare and substantiate its case against us. In other words, Chrysler's position is it will discharge us, deprive us of our livelihood, without a shred of evidence to support its actions. This highhanded arrogance we can only describe as contemptible.

The union therefore demands A. Chandler, J. Edwards, R. McKee and H. J. Taylor be immediately reinstated and made whole.

ANSWER: SEE NEXT PAGE

The grievance relates many of the circumstances that triggered the protest demonstration on May 27 and 28, 1970. To properly present this case the Union would like to present some of the subsequent events and facts.

The Eldon plant has for many years experienced working conditions that were hazardous. This was presented in the various Special Conferences and Local negotiations. While the Local Union officers received favorable answers to the correction of the problems, the implementation had not taken effect. This was brought out in the Jordon Sims case (Appeal Board Case 5351). After the wildcat strike of May 1 to May 4, 1970 (for which J. Sims was discharged). A group of secondary Union leaders and rank and file members formed a Safety Committee at the Eldon plant, called the Eldon workers Safety Committee. It consisted of the following employees; George Bauer, John Moffett, Jordon Sims, James Edwards, John Taylor, J. C. Thomas, William Sparks, Robert McKee, Tony Moore, and Alonzo Chandler.

This Committee's first meeting was held sometime in the latter part of April and they decided that since the Union procedure did not remedy the problem, they decided to consult an attorney.

Robt. Thomas.

5/11/70

On May 11, 1970 attorney Glotta and Adelman met with the Committee and discussed the procedure the Committee could pursue to correct the conditions in the plant. The attorneys, Glotta and Adelman advised the Safety Committee that under Section 502 of the National Labor Relations Act they as workers had a right to withhold their labor when a condition is ^{abnormally} hazardous to the employees.

On May 26 Thompson, a 22 year-old employee, was killed because of an unsafe Hilo. This triggered the May 27 and 28, 1970 demonstration. The attorney also advised the Committee that they should not try to stop anyone from entering the plant and refrain from using the words of strike or ~~ll~~ talk-out in their leaflets. The attorney also ~~advised~~ volunteered to come down to the plant and participate in the demonstration.

On May 27, Taylor, McKee, and Chandler and many other employees protested in a form of a demonstration at the main gate (West Gate) protesting the unsafe conditions at the plant. Edwards was stationed by himself at the East and Jordan Gates. The Union will present the arguments and facts on what took place at the Main Gate (West Gate)

involving Taylor, McKee, and Chandler. I cannot defend the actions of Edwards since the allegations against him are that he did attempt to stop employees from entering the plant and was instrumental in writing two leaflets (No. 3 and No. 4) instructing workers to wildcate. The Union is unprepared to defend these allegations because, we the Union, were unable to reach Edwards to investigate the Corporation's charges.

Taylor, McKee, and Chandler did state that the leaflets passed out by Edwards were without their knowledge and inst Edwards from passing them out. They also notified Edwards that he was not representing the Safety Committee. The attorneys also notified Edwards that he was disobeying their instructions. Edwards, I'm told, ignored the j attorneys advice and continued to express his own opinion on the demonstration.

The activities of the Eldon Workers Safety Committee were undertaken under the advice of competent counsel, Michael Adelman and Ronald Glotta, 1529 Broadway, Detroit, Michigan 48226, 964-1190. Their advice was that Section 502 of the National Labor Relations Act would provide legal protection for the sort of informational and educational program ~~we~~ planned. The Section states that an employee

or group of employees who have "good faith belief in abnormally dangerous working conditions" do not have to work under those conditions, and such a "good faith" refusal does not constitute a "strike." Therefore, an injunction could not issue, nor should it, since there is no strike to issue against. Furthermore, ^{they} ~~we~~ were advised that a federal statute will always supersede a contract, or a portion of a contract, negotiated under that statute. ^{they} ~~we~~ were advised, in other words, that since the NLRA authorizes contract negotiations, and in ^{SINCE} ~~the~~ fact, ~~that~~ the Chrysler-UAW contract was negotiated under the authority of that statute, Section 502 was entitled to ~~precedence~~ precedence over the National Agreement.

Taylor, McKee, and Chandler acted at all times on a "good faith belief" basis. This can be proven by an ~~examining~~ examination of the contents of the first two Eldon Workers Safety Committee leaflets, (Union Exhibit _____ -- first leaflet; Union Exhibit _____ -- second leaflet), and a comparison of them with Eldon Workers Safety Committee leaflets #3 and #4, written by members of the League of Revolutionary Black Workers (Union Exhibit _____ -- third leaflet; Union Exhibit _____ -- fourth leaflet)

The first two leaflets, which were written by Taylor, contain strongly emphasized statements concerning Section 502 and its meaning. They also contain highly specific, well documented instances of safety hazards in the plant. The Safety Committee obtained this information from several stewards and fellow workers in several departments. The Safety Committee ^{had been} strongly advised by counsel not to use the terms such as "strike," "work stoppage," etc. Therefore, they do not appear in leaflets No. 1 and No. 2.

By contrast, leaflets No. 3 and No. 4, written by members of the Leage, contain the words "work stoppage," make no specific statements, (machine numbers, department numbers, etc.) about safety hazards, and make only minimal mention of Section 502 and its doctrine.

The Safety Committee was also advised against violence in any of their activities. Although strongly provoked, they ~~committed~~ ^{ONE such act of management provocation occurred} committed no acts of violence. During the ~~third~~ ^{2nd} shift informational picketing on May 26, 1970 ^{when} a supervisor's car entered the West Gate and moved toward the Management parking lot. Taylor's brother, Thomas Taylor and Taylor were marching next to each ^{a former Edison employee}

other as the car entered the driveway. His brother was separated by the car and began backing slowly away from it. Suddenly, ~~in a manner~~ ^{manner} ~~in a deliberate manner~~, or at best grossly negligent, the car lurched forward and the left front fender struck Taylor's brother in the stomach. Seized with blind rage, Taylor ran around the back of the car and tried to open the door on the driver's side. However, the door was locked and Taylor quickly gave up after noting that his brother was not injured. By this time J. Sims and a lawyer from the National Lawyer's Guild were on the scene and finished "cooling off" the incident.

The violence allegedly perpetuated by other members of the Eldon Workers Safety Committee at other gates can only be described as undisciplined adventures, along with the improper use of the terms "strike," etc., Taylor, McKee, and Chandler did not participate in them.

The use of signatures on leaflets #3 and #4 was also unauthorized. Taylor, McKee, and Chandler objected each time to the use of their names, as did J. Sims (See Appeal Board Case 5351). Another indication of "good faith" in the Safety Committee's program was the use of lawyers at the gates on all shifts to help assure a ~~non~~ disciplined,

legal & non-violent

~~disputed~~ action. Overall, the project was conceived and carried out in a completely legal manner, and surely it cannot be seriously asserted that a program such as this one, operating under the "umbrella" of a Federal statute, was operating "outside the system." How much more "inside the system" can you get than a Federal statute and the First Amendment.

vindicated and justified
~~corrected~~ Evenst subsequent to those of May 27 and 28, 1970 have objectively ~~corrected~~ the many safety complaints that were not complied with by the Corporation. The Union would like to refer to the following:

1. The UAW's inspection of the plant reported in Lloyd Utter's June 4, 1970 report. (Union Exhibit ____)
2. The August, 1970 Memorandum of Understanding which contains an admission by Chrysler that things are not what they should be in the Eldon safety program, a list of over 150 separate safety and housekeeping items to be corrected by October 1, 1970 and a massive realignment of janitorial forces for housekeeping purposes. (Union Exhibit ____)

3. The admission by the Local Union in the June, 1970 Criterion that the conditions that caused Gary Thompson's death had been grieved many times without success.

4. Lloyd's Utter's November, 1970 inspection of the plant which revealed many safety good house-keeping violations. (Union Exhibit _____)

5. The passage into law in December, 1970 of the Occupational SHealth and Safety Act whose preamble:

a. asserts the importance
of on-the-job safety

b. states that employees and employers
have an equal responsibility in this area.

(Union Exhibit _____)

6. The January, 1971 inspection of Eldon by the Michigan Department of Labor which revealed numerous safety violations (Union Exhibit _____)

7. Judge Colista's opinion in the Fred Holsey Civil Rights case, which condemned the Eldon safety program as "abominable," among other things.
(Union Exhibit _____)

The Union would like to submit the NLRB charge against the employer by the discharged employees -- Union Exhibit _____

As Union Exhibit _____ the Appeal statement on the NLRB decision of the charge. The Union would further like to cite a part of the Civil Rights Commission Referee decision of F. Philip Colesta, dated September 2, 1971 concerning the Holsey case in regard to the plant conditions at the Eldon plant.

As Union Exhibit _____ Referee Colesta stated (in part):

The Union would also stated that under the First Amendment the people of these United States have a right to protest and picket. In a recent decision Amalgamated Food Employees Union Local 590 vs Logan Valley Plaza, the Supreme Court stated in part in the majority decision, the quote in part:

"We start from the premise that peaceful picketing carried on a location open generally to the public is, absent other factors involving the purpose or manner of the picketing, protected by the First Amendment (Thornhill & Alabama 310 US88).

In the case cited also the decision stated, "nevertheless, no case decided by this court can be found to support the proposition that the non-speech aspects of peaceful picketing are so great as to render the provision of the First Amendment inapplicable to it altogether."

Justice Douglas, concurring, stated in part, "Picketing is free speech plus the plus being physical activity that may ~~implicate~~ implicated traffic and related matters. Hence the latter aspects of picketing may be regulated."

THE ISSUE

The issue in this case ~~wx~~ is whether employees of the Company can peacefully demonstrate in protest to conditions in the plant. It is the Union's contention that they should follow the Union procedure as outlined in the contract, but, on the other hand, the NLRB has set up rules to govern Union activities, one of these is Section 502 Right or wrong, these employees were given council that Section 502 covered their actions. And last but not least the First Amendment to the Constitution gives us right that no one can take away from the people.

It is the Union's position that Taylor, McKee, and Chandler should have followed the Union procedure and limited their demonstrations to the change of shift and lunch hour. But we strongly strongly feel that this was a demonstration and not a strike as alleged by the Corporation. On the other hand, Edwards did violate Section (5) by trying to prevent employees from entering the plant as ~~lx~~ alleged by the Corporation.

We also want to go on record that since the May 1 to 4, wildcat,

strike and the May 27 - 28 demonstration there has been a considerable change in the plant safety conditions. Were these acts responsible for the change is an unanswered question.

Therefore, the Union respectfully request that the Chairman modify the discharge and reinstate Taylor, McKee, and Chandler with full seniority but without back pay.