

NLRB in Battle Against S.C. Boeing Workers

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The Boeing Company is being subjected to trial. However, what has not been discussed is the real motivation for the United States government to bring them to trial.

The National Labor Relations Board, a federal agency, is claiming the company illegally retaliated against its union-represented workforce by “transferring” a production line that did not exist to a non-union plant in North Charleston, South Carolina. The NLRB claims that this decision, made in October 2009, violates federal labor law that protects the Washington employees’ rights to support a union through strike activity.

What is missing from the debate is that the employees of Boeing in North Charleston were also members of a union until September 10, 2009. On that day, the Boeing employees in South Carolina decertified the International Association of Machinists (IAM) by a vote of 199 to 68 at the company’s 787 fuselage assembly plant in South Carolina.

The IAM is the same union that represents Boeing employees in Everett, Washington and the same union that filed an unfair labor practice charge against Boeing alleging an illegal transfer of work to the South Carolina plant.

The NLRB claims that in October, 2009, the Employer retaliated against its Washington employees because they engaged in strikes in 1977, 1989, 1995, 2005 and 2008 by transferring its second line of production of 787 Dreamliners to the South Carolina plant.

However, only one month before, the South Carolina workforce decertified the IAM. On September 11, 2009, one day after the decertification vote, the Seattle Times reported that “(t)he vote means that Boeing Charleston will compete as a non-union plant against Boeing Everett, an IAM stronghold, to be the site of the second Dreamliner assembly line.”

In essence, the employees of Boeing Charleston chose to decertify the union and became a far more attractive business proposition because of that decision.

The same law that protects an employee’s right to join and support a union also protects an employee’s right to refrain from supporting a union. Section 7 of the National Labor

Relations Act expressly protects those who “refrain from” supporting, joining or assisting labor unions. The NLRB has always held that an employee’s support for a decertification of a union is “protected” activity. It is a duty of the NLRB to defend employees who are subjected to retaliation for engaging in protected activity.

This week the NLRB will seek to prohibit the employees of Boeing in South Carolina from continuing to build 787 aircraft, and it would not have done so if the employees had not decertified their union. The NLRB has held for decades that an employer only illegally transfers work from a union to a non-union facility when it does so to escape its relationship with the union.

Had the South Carolina Boeing employees remained represented by the IAM, the “transfer” of work would have been to a “union shop.” The NLRB could not establish a desire by Boeing to escape its relationship with the IAM by “transferring” work to an IAM-represented facility.

Simply put, it is because the South Carolina workers chose to decertify the IAM that the NLRB now seeks to prohibit them from continuing to build 787 aircraft. Had they kept their union cards, the government would allow them to earn a living.

The impact of the “retaliation” at the two facilities is also striking. Since the Everett Washington workers were allegedly “discriminated” against in October 2009, Boeing has reported that no employees have been laid off and 2,000 additional employees have been hired.

Conversely, the United States government is seeking to prohibit the South Carolina workers from building 787 aircraft and doing the same job they were doing even before the alleged “retaliation.”

Boeing has represented that if the government gets what it wants, 1,000 workers will lose their jobs. Lafe Solomon, acting general counsel of the National Labor Relations Board, testified June 17 that he truly regreted the “anxiety” the litigation had caused the South Carolina workers and their families.

On June 1 the Charleston employees asked the NLRB if they could participate in the trial that will determine whether they will have jobs. Naturally, the NLRB turned these employees away and denied their request writing that allowing them to appear “would be a seriously complicating event.”

Of course it would be complicating. The North Charleston workers exercised their federally protected right to decertify the IAM on September 10, 2009. Now, the IAM, in lockstep with the NLRB, is suing to prohibit their employer to let them do their jobs. The only method to qualify for their jobs is to remain a member of a union they do not want to belong to.

The real question in the Boeing trial is which employees were illegally retaliated against — the employees in Washington or those in South Carolina?