

**THE PUBLIC REVIEW BOARD
INTERNATIONAL UNION, UAW**

APPEAL OF:

WILLIAM L. PEARSALL, Member,
UAW LOCAL UNION 12
(Toledo, Ohio),

Appellant

-vs-

CASE NO. 1475

UAW LOCAL UNION 12 EXECUTIVE BOARD
REGION 2B
(THE UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA),
Appellee.

DECISION

(Issued May 26, 2004)

PANEL SITTING: Prof. Theodore J. St. Antoine, Chairperson,
Prof. Benjamin Aaron, Prof. Janice R. Bellace,
Prof. James J. Brudney, Prof. James E. Jones,
Jr., and Prof. Paul Weiler.

Whether William L. Pearsall's charges against the Chairperson of the UAW Local 12 Jeep Unit satisfied the requirements of Article 31, §3, of the International Constitution.

FACTS

William L. Pearsall is a member of the UAW Local 12 Jeep Unit in Toledo, Ohio. On April 1, 2003, he filed charges against the Unit Chairperson, Nick Vuich pursuant to Article 31 of the International Constitution. Pearsall asserted that the manner in which Vuich conducted Unit meetings violated the International Constitution as well as the Local Unit Bylaws. Specifically, Pearsall charged that Vuich failed to preside over the meeting of March 2003, or have the Vice Chairperson preside in his absence.¹

¹ Pearsall's charge states:

“(1) Mr. Vuich as chairman of the Jeep unit did not preside over the Jeep Unit for March 2003 and did not have the Vice Chairman preside over the meeting as the UAW Constitution and the Jeep Unit Bylaws require. Constitution (article 40, section 1) and Bylaws (article 8, section 1).” (Record, p. 1)

Furthermore, Pearsall stated that Vuich failed to maintain two podiums with microphones in accordance with a resolution passed by the membership.²

Pearsall charged that Vuich had interfered with members' attempts to present issues to the membership under new business. According to Pearsall, Vuich denied Calvin Buckmaster the right to present a resolution to the membership as new business at the February 2003 meeting. He asserted that Vuich wrongfully denied Thomas Rutherford's appeal protesting the establishment of a "lines of demarcation" committee at a skilled trades meeting rather than a union meeting. Pearsall stated that Vuich continually violated Roberts Rules of Order by deferring new business to the question and answer portion of Unit meetings.³

Pearsall charged that Vuich failed to punch Unit attendance cards at Unit meetings and allowed stewards and representatives to attend meetings on two different shifts, which gave them the opportunity to vote twice on the issues presented to the membership.⁴

² Pearsall's charge states:

"Mr. Vuich violated the Bylaws and the Constitution by not adhering to a resolution passed by the Jeep Unit members, the highest tribunal of the Unit, which states two podiums with microphones, one on each side of the meeting hall, will be used at every Unit meeting. Bylaws (article 4, section 1)" (Record, p. 1)

³ Pearsall's three charges state:

"(3) Mr. Vuich denied Calvin Buckmaster his UAW Constitutional right to present a resolution on the Jeep Unit meeting floor during new business of the February 2003 Unit meeting.

(4) Mr. Vuich denied Thomas Rutherford his UAW Constitutional right of appeal when he knowingly would not uphold his appeal concerning the illegal formation of the lines of demarcation committee during a skilled trades non-meeting, not a union meeting. Constitution and Bylaws infraction state, one union meeting.

(5) Mr. Vuich continually violates the UAW Constitution and Bylaws by not following the Roberts Rules of Order which call for new business to be conducted as part of new business portion of the parliamentary procedure. He repeatedly defers new business to the question and answer portion of the meeting or to discussion after the meeting. Bylaws (article 5, section 6)" (Record, p. 1)

⁴ His charges state:

"(6) Mr. Vuich violated the Jeep Unit Bylaws by not requiring executive committee person and union representatives servicing districts punch Unit attendance cards of all members in their respective areas monthly. Bylaws (article 8, section 9)

(7) Mr. Vuich violated the Bylaws of the Jeep Unit and Constitution of the UAW by knowingly allowing members, including stewards, and appointed representatives, to attend and vote at both meetings. This also violates all democratic principles of one man one vote." (Record, p. 1)

Finally, Pearsall stated that Vuich violated the Constitution by holding a contract ratification vote without first holding a special meeting to inform the membership about issues such as a change in contractual overtime hours. Pearsall stated that Vuich also excluded certain members covered by the agreement from voting.⁵

The Jeep Unit Executive Committee considered Pearsall's charges at a meeting on June 5, 2003. The Executive Committee determined that Pearsall's charges concerning Vuich's conduct of Unit meetings failed under Article 31, §3(c), of the Constitution in that they did not assert a violation of the Constitution or conduct unbecoming a union member. In a letter to Pearsall dated August 1, 2003, Executive Committee members Daryl Peterson and Jeffrey Powers explained that the Secretary-Treasurer chaired the March meeting of the Jeep Unit because the Chairperson and the Vice Chairperson were unavailable. The letter states:

"...As you well know, the Union Meeting cannot be cancelled without membership action or the International UAW cancelling that meeting due to contract negotiations. The Jeep Unit Membership has made it clear in the past many times that they do not want meetings cancelled."⁶

The Executive Committee reported that the Unit had tried to use two microphones at Unit meetings in accordance with a motion passed years ago, but found that the practice did not work, because it was impossible to maintain order. The Committee also ruled that Pearsall's complaint about Calvin Buckmaster's resolution failed under Article 31, §3(c), of the Constitution. The Committee's letter states:

"...Brother Buckmaster's motion to provide a copy of the Tentative Agreement to everyone in the Jeep Unit Membership prior to the ratification vote was referred by Chairman Nick Vuich to the International UAW. They denied the request due to the cost and timeliness as well as our policy to hold a special ratification meeting for the membership with a question and answer period seems to be the mechanism that has worked out well throughout the years and that we would stay with that format."⁷

⁵ He charges:

"Mr. Vuich violated the Constitution by holding a contract ratification vote for change of contractual overtime hours without a special meeting to inform the membership of the issues as required and also excluded certain members covered under the contract bargaining agreement." (Record, p. 2)

⁶ Record, p. 6.

⁷ Record, pp. 6-7.

The Executive Committee ruled that Pearsall's charge concerning Thomas Rutherford's appeal was untimely under Article 31, §3(b), of the Constitution. The Committee found that Pearsall's charge concerning Vuich's alleged violations of Roberts Rules of Order lacked the specificity required by Article 31, §3(a), of the Constitution. Committee members Peterson and Powers reported that the Executive Committee had not punched attendance cards for members attending Unit meetings for several decades. They asserted that the charge that anyone was permitted to vote twice was untimely and lacked specificity. They wrote:

“...Nick Vuich stated at the Union Meeting that those in attendance at both meetings would only be allowed to vote at one meeting. At that meeting, no one ever challenged whether or not someone was voting twice or challenged the vote. A motion was made to accept the vote. That motion received support. It was seconded and carried unanimously with no questions. If there was a member present who saw someone voting twice, why did he not raise his hand during that vote to stop and correct the situation and take action then instead of months later and formal charges leveled against the Chairman?”⁸

The Committee held that Pearsall's complaint about the ratification vote was a matter that should be decided by the membership at a membership meeting and so failed under Article 31, §3(d), of the Constitution.

Pearsall received the Unit Executive Committee's letter explaining its action on his charges on August 12, and he appealed to the International Executive Board (IEB) on September 8, 2003. In support of his appeal, Pearsall argued that his charges should have been judged by the Local Union rather than the Jeep Unit Executive Committee, since Vuich is a member of the Unit Executive Committee. He claimed that it was inappropriate for the Unit Executive Committee to judge charges against one of its own members. Pearsall pointed out that the Executive Committee's response to his charges admitted that the violations occurred. He maintained that the Committee's answers to his charges cited irrelevant information or referred to what would be done in the future.⁹

The International President determined that a hearing was unnecessary on the appeal, and his staff prepared a report for the IEB based on the information provided by Pearsall and the Jeep Unit. The report declares that Pearsall's charges concerning Vuich's manner of conducting Unit meetings do not state a violation of the Constitution, and that these issues should have been addressed by the membership at the meeting.

⁸ Record, p. 7.

⁹ Record, pp. 9-10.

The report further holds that Pearsall did not provide any specific information about Buckmaster's proposed resolution or Rutherford's appeal, so that these charges fail under Article 31, §3(a), of the Constitution. The report indicates that Pearsall's charge concerning Rutherford's appeal fails under Article 31, Section §3(b), as well, because Pearsall did not indicate when Rutherford filed his appeal. Similarly, the report disqualifies Pearsall's charge concerning Vuich's alleged failure to follow Roberts Rules of Order because he did not describe specifically how Vuich had violated Roberts Rules of Order, or state when the violation occurred. The report indicates that failure to punch attendance cards would not be considered conduct unbecoming a union member or a violation of the Constitution. The report notes that it would be conduct unbecoming a union member to permit stewards and representatives to vote twice at union meetings, but it states that Pearsall offered no evidence to support his allegations on this point. The President's staff concludes that Pearsall's charges failed to satisfy the requirements of Article 31, §3, of the International Constitution and it directs the Local Union to take no further action on them.

The IEB adopted the report of the President's staff as its decision and notified Pearsall on January 8, 2004. Pearsall has now appealed to the Public Review Board.

ARGUMENT

A. William L. Pearsall:

My charges arise from Chairperson Nick Vuich's continuing disregard for the UAW Constitution and the Jeep Unit Bylaws. I believe that the Jeep Unit Executive Committee should have refused to rule on charges against its own Chairperson. In any event, the Committee admits to several of the charges, but offers weak and unfounded excuses for the actions of the Chairperson. The Committee does not understand the gravity of ignoring the Constitution, Bylaws and the membership of this Unit.

The Unit Executive Committee stated in response to my first charge that Unit meetings cannot be cancelled without membership action or cancellation by the International because of contract negotiations. That statement is simply untrue.

I asserted that Vuich did not allow a resolution to be introduced during new business at the February 2003 meeting. The International Executive Board does not need to judge the merits of the resolution in order to determine that this charge does state a violation of the Constitution. The membership should be allowed to determine if the Chairperson acted improperly. The same holds true for Rutherford's appeal. If we are allowed to proceed to a trial, we can present numerous witnesses to the fact that the Chairperson often refers issues to the question and answer segment of the meeting in order to limit discussion. Once again, the membership should have the right to judge the propriety of this practice.

The Chairperson admitted that stewards and representatives were allowed to attend meetings on two shifts, but he stipulated that they should only vote at one

meeting. In the first place, to attend a meeting is to participate at that meeting and to comment, sway, and or influence opinions or the vote of the members attending the meeting. Secondly, why are some members being paid to attend union meetings while most are not? Finally, it seems naïve to assume that members being paid to attend union meetings because they hold an appointment made by the Chairperson would vote any way other than to protect their jobs. Because of this practice, other members feel it is futile to attend Unit meetings where appointees control the agenda.

My final charge concerns a membership vote on a contract change. The Constitution requires a special ratification meeting and a full vote of all members covered by the contract. This was not done, and in fact, some members voted on the issue who were not affected by the changes.

Because my charges assert wrongdoing on the part of the Chairperson of the Unit Executive Committee, the trial should be conducted at the Local level rather than by the Unit.

B. International Union, UAW:

Appellant Pearsall confuses the remedies available under Article 33 of the International Constitution, with the quasi-criminal structure established under Article 31. Charges presented under Article 31 are designed for, and aimed at, a very limited set of offenses, posed in a very limited set of circumstances. That is why the procedural requirements of Article 31, §3, exist. Pearsall has become so swept away by his perception of evil and injustice that he insists that nothing less than a trial will address the issues he raises.

Violations of parliamentary rules do not constitute conduct unbecoming a union member. Article 33 provides adequate remedies for these types of complaints. Pearsall's charge about the availability of microphones under a long-disused Local policy is not a matter of Constitutional import, and is also untimely. While Pearsall's complaint that certain officials voted twice might sustain a charge of conduct unbecoming a union member, he provides no specifics in support of the charge. Even if he had, he would still have to explain why he could not have challenged the second vote from the floor, as these were not secret ballot votes.

C. Rebuttal, by William Pearsall:

The charges against Chairperson Vuich should be judged by members of the Jeep Unit. The important principle underlying all of these charges is that the members are the Unit's highest authority. Only the membership has the right to determine the reasonableness of Vuich's excuses for not presiding over Unit meetings. If the Unit Chairperson wanted to change the resolution adopted by the membership requiring two microphones at Unit meetings, he should have followed established procedures.

The charges are not untimely. These violations are ongoing. Vuich delayed Thomas Rutherford's appeal concerning the lines of demarcation for over a year and then dismissed it as untimely.

Punching union cards is a requirement of the Local Unit Bylaws adopted in 2000. The reason for the Bylaw was to limit member participation in the two-meeting system. Why would a member attend both meetings if not to have an undue influence over the members' votes?

DISCUSSION

Article 33 of the International Constitution sets forth the procedure to be used by members to challenge any action or failure to act on motions presented to the membership or decisions made at local union meetings regarding the rules for conducting the meeting. As we stated in *Maewethers Marshall v. Local 1364, UAW*, 1 PRB 522 (1969), charges filed pursuant to Article 31 are not intended for remedial purposes. All of the issues raised in appellant's charges are matters which ought to have been presented as appeals pursuant to Article 33 of the Constitution, and they were therefore properly disqualified by the Jeep Unit Executive Committee under Article 31, §3(c) and (d), of the Constitution. Furthermore, it was proper for the Jeep Unit Executive Committee to evaluate the propriety of Pearsall's charges under Article 31, §3, of the Constitution. Pearsall's claim that the matter ought to have been referred to the Local Union Executive Committee has no Constitutional basis.

Article 31 does not offer an alternate route of appeal for members dissatisfied with action or inaction by the local union or unit on appeals submitted pursuant to Article 33 of the Constitution. Pearsall argues that the membership should be allowed to decide whether the Chairperson of the Jeep Unit acted improperly in his handling of the resolutions introduced by members Buckmaster and Rutherford, but he does not explain why these issues could not have been appealed to the Unit membership or to the Local Union as appeals from the Unit's failure to act.

The issue of stewards and representatives being allowed to attend two Unit meetings is essentially a procedural matter upon which the Unit membership could rule. It appears from this record that the Unit membership does not object to this practice. Although Pearsall complains that the practice gives stewards and representatives the opportunity to vote at both meetings, he has not identified anyone who actually voted twice on any issue, so that charge fails for want of specificity.

The decision of the IEB is affirmed.