

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

APPEAL OF:

ANGELA M. DeGRAY,  
Appellant

-vs-

CASE NO. 1477

MDA-UAW LOCAL UNION 571  
(Groton, Connecticut)  
REGION 9A  
(THE UNITED AUTOMOBILE, AEROSPACE  
AND AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA),  
Appellee.

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**DECISION**

(Issued June 23, 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 C. Weiler.

This appeal presents the question whether absentee ballots that were received by the MDA-UAW Local 571 after the start of its triennial election on June 4, 2003, should have been counted.

**FACTS**

The Marine Draftsmen's Association (MDA), UAW Amalgamated Local Union 571 represents employees of the Electric Boat Corporation in Groton, Connecticut. On June 4, 2003, Local 571 conducted its triennial election of executive officers. Appellant Angela DeGray was a candidate for Guide in that election.

At the time of the triennial elections, 28 members of UAW Local 571 were assigned to the following locations: Newport News Shipyard, Newport News, Virginia; Quonset Point Shipyard, North Kingston, Rhode Island; Puget Sound Shipyard, Bremerton, Washington; and BAE Systems, Barron-in-Furness, Cumbria, United Kingdom.<sup>1</sup> The Local Election Committee therefore arranged to make absentee ballots available to members who would be away from the Local at the time of the election.

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<sup>1</sup> Record, p. 28.

A special election notice concerning the absentee ballot procedure was circulated and posted on May 14, 2003. The notice indicated that members voting with absentee ballots should follow guidelines published in the "Guide for UAW Local Union Election Committees." The notice reprinted the following excerpt from the Guide:

"1. A member who will be away from her/his Local Union during the entire period of an election of executive officers or Convention delegates on a work assignment for his/her employer or on Local Union business may apply for an absentee ballot by filing with her/his Local Union, by mail (registered or certified) or in person, a signed statement that s/he will be away from his/his Local Union for the entire period of the election on a work assignment by her/his employer or on Local Union business. Such statement or request must be filed with the Local Union in sufficient time for the member to secure a ballot and redeposit same with the Local Union prior to the start of the election.

2. Upon such certified application, the Local Union shall immediately provide the member with a ballot and two envelopes, one return-addressed. The members shall place her/his marked ballot in the unmarked envelope and enclose it in the return-addressed envelope.

3. The ballot as indicated may then be presented to the Local Union in person or as contained in the return-addressed envelope returned by mail (registered or certified). However under either circumstance, the ballot must be received by the Local Union before the start of the election.

4. For this election, requests for absentee ballots must be received no later than May 23, 2003. Marked ballots, enclosed in an unmarked envelope as described above, must be received by the Local Union no later than June 3, 2003."<sup>2</sup>

The results of the election for Guide reported by the Election Committee on June 5, 2003, were as follows:

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<sup>2</sup> Record, p. 3. This procedure is also spelled out in the Interpretations section of the International Constitution adopted at the 33<sup>rd</sup> Constitutional Convention on June 2002, at page 208.

Angela DeGray	558	
Sue Mack	575	(elected) <sup>3</sup>

On June 6, DeGray wrote to the Election Committee that she had been informed that not all of the valid ballots had been counted. DeGray requested a recount. The recount produced the following results:

Angela DeGray	567	
Sue Mack	576	(elected) <sup>4</sup>

On June 10, DeGray appealed the Election Committee's decision to reject some of the absentee ballots cast by members on special assignments despite the objections of her observer, Michael Brandt. The Election Committee denied DeGray's appeal, stating that its decision was based on the procedure for absentee balloting set forth in the UAW Constitution.

DeGray appealed the Election Committee's decision to the Local 571 Executive Board on July 10. In support of her appeal, DeGray asserted that the Local Election Committee's decision to count some of the absentee ballots and to reject others was unfair, undemocratic and denied eligible members of Local 571 the right to vote. She stated that the ballots from Rhode Island and Virginia were not counted although they were returned in the return-addressed envelopes provided by the Union prior to the start of the election. The ballots from the United Kingdom were returned in the individual return-addressed envelopes provided by the Local within an airmail package provided by Royal Mail, but they were not counted because they were held up in customs and therefore were not received before the start of the election. The ballots returned from Washington were counted.<sup>5</sup>

DeGray pointed out that none of the absentee ballots actually met all of the requirements of the guidelines circulated by the Election Committee, because they had not been requested and certified in accordance with the procedure described in paragraph 1 of the guidelines. DeGray argued that the Election Committee's decision to count the ballots from Washington because they had been sent by Express Mail established a precedent that should have been applied to the other ballots. She wrote:

"The MDA-UAW Local 571 Election Committee established a precedent by counting the absentee ballots returned from Puget Sound Naval Shipyard, Washington, which were not in accordance with all of Article 38, Section 10(b). The MDA-UAW Local 571 Election Committee counted the absentee ballots returned from Puget Sound Shipyard, Washington,

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<sup>3</sup> Record, p. 5.

<sup>4</sup> Record, p. 14.

<sup>5</sup> Record, pp. 16-18.

based on the decision priority mail was acceptable in lieu of registered or certified mail. The MDA-UAW Local 571 Election Committee must permit the same leniency with regard to the absentee ballots returned from Northrop Grumman Newport News, Virginia, Quonset Point Facility, Rhode Island, and BAE Systems Marine, England, to assure a fair and democratic election.”<sup>6</sup>

DeGray asked the Local Executive Board to direct the Election Committee to count all of the ballots cast to ensure that all of the eligible members of Local 571 were given the opportunity to vote.

The Local 571 Executive Board voted to uphold the Election Committee’s decision on DeGray’s appeal at a meeting on August 4, 2003. DeGray appealed the Local Executive Board’s decision to the International Executive Board (IEB) on August 8.

In its response to DeGray’s appeal to the IEB, Local 571 reported that 20 absentee ballots were sent to the four off-site locations where Local 571 members were on assignment on May 15, 2003, and eight additional ballots were given directly to people leaving for a job assignment in the United Kingdom on May 23, 2003.<sup>7</sup> The Local accounted for the absentee ballots as follows: Three ballots were returned from Newport News, Virginia, and one ballot was returned from North Kingston, Rhode Island on May 27 by regular mail. One of the ballots given to the members leaving for the assignment to BAE systems in the United Kingdom was returned by regular mail on May 29. The four ballots sent to Bremerton, Washington were returned on May 30 by Express Mail with a tracking number. An unknown number of ballots were received by the Local on June 5 from the United Kingdom in a package sent by Royal Mail with a tracking number.<sup>8</sup>

In a letter dated November 6, 2003, Local Election Committee Chairperson Joanne Basile explained that the ballots from Virginia and Rhode Island were not counted because they were not sent by certified or registered mail as required by the guidelines. The ballots sent from the United Kingdom had a tracking number, but they were not received before the election, so they were not counted.<sup>9</sup> The ballots from Bremerton, Washington were counted because they were sent Express Mail, so they had a tracking number similar to certified or registered mail.<sup>10</sup>

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<sup>6</sup> Record, p. 17.

<sup>7</sup> Record, p. 28.

<sup>8</sup> Record, p. 29.

<sup>9</sup> Record, p. 26.

<sup>10</sup> Record, p. 27.

Presidential Administrative Assistant James Patton and International Representative Dan Mastropietro conducted a hearing on DeGray's appeal on behalf of the International President on December 4, 2003. The hearing officers concluded that all of the ballots received prior to the election should have been counted, because there was no significant distinction between the methods used to mail the ballots.<sup>11</sup> Their report states:

"Although the decision and rationale of the Election Committee is understandable, weight must be given to the counting of all ballots received by mail prior to the start of the election especially considering that individual ballots were returned in one mail package via Priority Mail containing ballots using the double envelope system and counted, versus the ballots returned within individual addressed envelopes via regular mail using the double envelope system but not counted."<sup>12</sup>

On the other hand, the hearing officers held that the ballots received after the election could not be considered. They stated that it was unfortunate that the ballots from the United Kingdom were held up by customs, but noted that the Election Committee had mailed the ballots at least fifteen days prior to the date they were required to be returned. Based on these conclusions, the hearing officers ordered another recount of the ballots in the Guide election, directing the Local Election Committee to include all of the ballots received before the date of the election.<sup>13</sup>

The IEB adopted the report of the hearing officers as its decision and notified the parties on January 20, 2004. The recount ordered by the IEB was conducted on February 2, 2004, and produced the following results:

Angela DeGray	572	
Sue Mack	576	(elected) <sup>14</sup>

DeGray has now appealed to the PRB the IEB's denial of her request to have all of the absentee ballots counted.

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<sup>11</sup> Record, p. 51.

<sup>12</sup> Record, p. 51.

<sup>13</sup> Record, p. 52.

<sup>14</sup> Record, p. 53.

## ARGUMENT

### **A. Angela DeGray:**

The ballots which were not counted in the Guide election could have affected its outcome.

There is no dispute that the ballots returned from the United Kingdom were received after the start of the election; however, the reason for this has been disputed. The Local 571 Election Committee representative in the United Kingdom received the first package of ballots and delivered the unmarked ballots to each member of the Local Union on May 26, 2003. On the same day, the representative collected the marked ballots in their unmarked envelopes and repackaged them for mailing to the United States. A second package of ballots was received by the representative in the United Kingdom on May 28, and was treated similarly. The Local Election Committee instructed the representative to retain the absentee ballots contained in the first package until the second package was ready to be mailed so that both packages could be returned together. The Election Committee representative in the United Kingdom airmailed the two packages in one sealed package provided by Royal Mail on May 28. The sealed airmail package was then subjected to a customs search upon entry into the United States on May 29. This delayed the return of these ballots to the Local Union until June 5.

If the Election Committee had allowed the ballots to be returned from the United Kingdom in the individual return-addressed envelopes provided by the Local in accordance with the UAW Constitution, the customs search would not have occurred. Furthermore, if the first package had been mailed as soon as it was ready, it might have been returned before the start of the election. Thus the Election Committee bears the majority of the responsibility for the ballots being returned late.

The Local Election Committee so limited the voting time as to make it impossible for some of the members of the Local Union to vote. This violates Article 38, Section 10(a), of the Constitution which states that every member in good standing shall be entitled to vote. Counting all of the ballots for the office of Guide will ensure the right of all the members of Local 571 to vote in fair and democratic elections.

### **B. Local Union 571 Election Committee:**

The Election Committee did not instruct its representative in the United Kingdom to retain the absentee ballots in the first package until the second package was complete so that the two could be mailed together. The official instructions for the election were stated in the Election Notice dated May 14, 2003.

**C. International Union, UAW:**

It is well established that for an absentee ballot to be valid it must be received before the date of the election. Article 38, §10(b), provides that absentee ballots will only be permitted in accordance with a uniform policy established by the IEB. The IEB's policy, which is set forth in the Interpretations to the Constitution, is that all ballots must be returned prior to the start of the election. The Constitution does not allow discretion in this matter. To allow a different interpretation could cause election abuse.

**DISCUSSION**

Under the rules for local union elections of executive officers set forth in Article 38, §10, of the International Constitution, the local union's Election Committee is charged with the responsibility for supervising the election and administering the procedures for conducting the election established by the membership. We agree with the observation of the hearing officers in their report to the IEB, that weight should have been given to the desirable objective of counting all of the ballots cast. Rules regarding the validity of ballots should be liberally construed to afford as many members as possible with the opportunity to vote in local elections.

Nevertheless, while we find it unfortunate that a rather rigid application of the absentee ballot regulations has disenfranchised a number of otherwise eligible voters in the Local Union 571 election to an extent sufficient to have possibly affected the outcome of the election for Guide, there is no suggestion that the Election Committee was influenced by any improper motivation. The Election Committee made a good faith application of the rule to the situation and its judgment has been approved by the IEB. We find that the decision not to count the ballots received after the date of the election is consistent with the requirements of the Constitution and was within the discretion of the Election Committee. There is no basis for us to overrule its judgment.

The appeal is denied.