

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

APPEAL OF:

DAVE YETTAW, Member
UAW LOCAL UNION 599, REGION 1C
(Flint, Michigan),
Appellant

-vs-

CASE NO. 1482

INTERNATIONAL UNION, UAW
(THE UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA),
Appellee.

DECISION

(Issued October 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 C. Weiler.

At issue in this appeal is whether Dave Yettaw has filed a timely appeal challenging amendments to the Interpretations section of the International Constitution adopted during the 33rd Constitutional Convention.

FACTS

During a special session conducted on June 1, 2002, the International Executive Board (IEB) approved amendments to the Interpretations section of the International Constitution. The minutes of the June 1 meeting report that Presidential Administrative Assistant Dave Curson introduced the amendments and explained them as follows:

“BROTHER DAVE CURSON: Okay. Well, First, the proposed Interpretations to the International Constitution: At the last Board meeting this is what we discussed. The reason we’re doing it at this Board meeting is that if you agree to these changes—what this is, is a clean-up to the Interps, in the back of the Constitution. Some of this stuff hasn’t been changed in 40 years; some of the stuff no longer applies; there were things that DO apply, that weren’t there. The AA’s took on the assignment and for about three months

worked on these. They cleaned them up, and they proposed these changes to the Board.”¹

The minutes indicate that the Board members reviewed the amended Interpretations and adopted a motion to approve them.²

On October 30, 2003, retired UAW Local 599 member Dave Yettaw wrote to International President Ron Gettelfinger and requested copies of all the material considered by the IEB in making the changes to the Interpretations. Yettaw specifically referred to changes in the Interpretations of Article 6, §19, of the Constitution. He also asked for a copy of the 33rd Constitutional Convention Proceedings.³ Presidential Administrative Assistant Eunice Stokes-Wilson responded to Yettaw’s letter on January 8, 2004. Stokes-Wilson advised Yettaw that any member can view the IEB meeting minutes for the June 2002 meeting at the regional office. She stated that copies of the Convention Proceedings could be obtained from the UAW Purchasing Department.⁴

On January 22, 2004, Yettaw attempted to appeal the IEB’s decision to amend the Interpretations section of the Constitution to the Public Review Board (PRB). PRB staff advised Yettaw that he must first present his appeal to the IEB. Administrative Assistant Gary Bryner of the President’s office responded to Yettaw’s January 22 appeal on February 2. Bryner took the position that the appeal was untimely. He pointed out that International Constitutions were mailed to Local Unions in December 2002, and that Yettaw did not raise the issue about the Interpretations amendments until October 2003. Bryner wrote:

“Even if we considered your October 30, 2003, letter an appeal, it would have been at least 10 months after you could have reasonably found out about the International Executive Board’s decision that you want to challenge.”⁵

Yettaw appealed Bryner’s ruling that his appeal was untimely to the IEB on March 2, 2004. In the introduction to his appeal, Yettaw wrote:

“...I have been trying to perfect this appeal since my original Art 33 appeal dealing with these unannounced/uncommunicated revisions which led to deletions of Interpretations without delegate action, which were not

¹ Record, p. 3.

² Record, p. 3.

³ Record, p. 16.

⁴ Record, p. 22.

⁵ Record, p. 28

highlighted. Time limits should not be a barrier in an appeal of this nature.”⁶

In support of his appeal, Yettaw submitted a copy of a letter from Local 599 Recording Secretary Mike Keeler to International Secretary Treasurer Elizabeth Bunn. Keeler wrote to Bunn that Yettaw had inquired whether Local 599 had recently received copies of the summaries of official IEB action required by Article 12, §19, of the International Constitution.⁷ Keeler stated that he had advised Yettaw that he had not received any such summaries. He stated further:

“This member then asked me to write and ask for the Summary of Official International Executive Board Actions from the year 2001 to the present. Your assistance in this request is very much appreciated.”⁸

Yettaw pointed out that the Local Union had received no response to this request.

Yettaw stated that he did not find out for certain of the changes to the Constitutional Interpretations until he obtained handouts describing the changes sometime after January 8, 2004. He asserted that the only people who knew about the changes were the members of the IEB and the printer. Yettaw further argued that the IEB deliberately adopted the changes to the Interpretations one day prior to the Convention and then gave no notice of the changes to the delegates. Yettaw wrote:

“What is so crucial about this appeal is the IEB actions have taken away members’ basic rights long established by prior IEB actions.”⁹

He urged that his appeal be found timely.¹⁰

The International President’s staff determined that a hearing was unnecessary on Yettaw’s appeal and issued a report for the IEB based upon information provided by the appellant. The staff’s report explains that the two people responsible for typing the summaries of IEB actions taken at IEB meetings required by Article 12, §19, left their positions when the newly elected International President and Secretary-Treasurer

⁶ Record, p. 33

⁷ Article 12, §19 provides, in pertinent part:

“...In addition, the Secretary-Treasurer shall prepare a summary of official International Executive Board action after each International Executive Board Meeting, which shall be sent to each Local Union.

⁸ Record, p. 25.

⁹ Record, p. 34.

¹⁰ Record, p. 34.

assumed their offices, as a result the summaries were not prepared. Nevertheless, the staff report indicates that the 2002 International Constitutions were mailed to all convention delegates and local unions in December 2002, and that Yettaw did not actually appeal the changes to the Interpretations section until January 2004.¹¹ The staff report states that there is no Constitutional language to support Yettaw's assertion that time limits should not be a barrier to this type of appeal.

The President's staff denied Yettaw's appeal and its report was adopted by the IEB. Yettaw was notified of the IEB's decision on March 30, 2004. He has now appealed that decision to the PRB.

ARGUMENT

A. David Yettaw:

The International Union states that 2002 International Constitutions were mailed to Convention delegates and local unions in December 2002. I was not a delegate to the Convention, so I did not receive a copy of the Constitution in December. The time limits of Article 33, §4(c), begin to run when an appellant first becomes aware or reasonably should have become aware of the action or decision being appealed.

The International Union admits that summaries of the actions of the IEB at the June 2002 meeting were not prepared as required by Article 12, §19, of the Constitution. On January 8, the International Union refused to provide me with the minutes of that meeting, but instead referred me to the Region. I do not think that the Region 1C office ever had the minutes available for members to view prior to April 5, 2004, when they were faxed to the Region while I was sitting there. So how could I, or any other member, have been reasonably aware of the content of those minutes?

The information that I needed for my appeal had to be faxed from Solidarity House and included over 200 pages. I was able to proceed only as far as page 58 of the February 2002 IEB minutes because of the time involved in faxing the materials. I did not even get to the May 2002 minutes. I will make further arrangements with the Region to view the minutes.

A member first gets information from his or her local union or the Regional office. In this case it was unavailable. My own Local 599 Executive Board Members did not get copies of the Constitution until they were ordered in February 2004. The new Constitutions were distributed to the Local 599 Executive Board members during the March 2004 meeting.

There is no evidence that the changes to the Interpretations were mentioned to the delegates of the 33rd Constitutional Convention, even though the changes had been

¹¹ Record, p. 38.

adopted just one day before the Convention convened. That would be suspect to corporate crime fighters, and I hope the PRB will look in depth at this appeal. The IEB has taken away long-established membership rights.

B. International Union:

As the PRB knows, the President's office, and sometimes the full IEB, issues interpretations of the UAW Constitution on a routine basis, whenever the need arises. The President's authority to issue interpretations flows from Article 13, §8, and the IEB's authority is found in Article 12, §6. The only procedural rule in the Constitution concerning appeals of these interpretations is the final sentence of Article 13, §8, which states: "Notice in writing of appeal of any decision of the International President must be filed with the International Secretary-Treasurer and the International President within thirty (30) days from the date of decision." Beyond the normal notice to the involved member(s) and Local, there is no express promulgation requirement. Of course, like anything else in the universe of the UAW, Interpretations are open to challenge before the membership, acting by its highest tribunal: the Constitutional Convention.¹² So even if Yettaw's appeal were timely, it ought to have been presented to the Convention Appeals Committee (CAC), rather than the PRB.

This appeal is clearly untimely, however. The time limits for an appeal run from the date on which the appellant first became aware or reasonably should have become aware of the action or decision being appealed. The minutes of the June 2002 IEB meeting had been promulgated by November 2002. Yettaw had a right to review them pursuant to Article 12, §19. The printed edition of the Constitution with the new Interpretations section was out by December 2002. Under §201(a), of the LMRDA, 29 U. S. C. §431, it became a public record, filed with the Secretary of Labor. There is no suggestion by Yettaw that the UAW failed in either its Article 12, §19, promulgation, or its §201(a), public filing duties. The delay of the summary required by Article 12, §19, does not excuse Yettaw's failure to obtain the information available to him about the 2002 Constitution.

For these reasons, the IEB decision should be affirmed.

C. Rebuttal, by Dave Yettaw:

President Gettelfinger's letter fails to address the point: How could any member have known of the changes? The delegates did not even know that the Interpretations had been changed. The only people who knew about the changes were the IEB members, the Administrative Assistants, and the printer.

The minutes of the June 2002 IEB meeting were not promulgated as required by Article 12, §19, of the Constitution or Region 1C would not have had to request copies

¹² Article 7, §1(a).

by fax in April 2004. The June 2002 minutes do not provide sufficient information to address the issues presented by my appeal. In fact, the IEB minutes demonstrate that the IEB members never had a separate discussion of a single interpretation change or modification.

Changes to the Interpretations which had the effect of limiting the rights of retired members were placed in the Constitution without any change to the language of the Constitution, and without delegate action or knowledge. These changes must not be allowed to become the law of the UAW.

DISCUSSION

We agree that Yettaw's appeal is untimely. It is undisputed that the International Union distributed printed editions of the Constitution containing the revised Interpretations in December 2002. Even if a copy was not delivered directly to Yettaw or his Local Union, he could easily have obtained a copy of the newly adopted Constitution after that date. Yet, he did not raise the issue about the amendments to the Interpretations until October 30, 2003, when he requested copies of the materials relied on by the IEB in drafting the changes.

Yettaw's claim that he could not know for certain that the Interpretations had been changed until he received handouts describing the changes in January 2004 has no validity, for an examination of the published Interpretations was all he required in order to know that they had been amended. Yettaw did not require the minutes to the IEB meeting, or the materials relied on by the IEB in drafting the amendments in order to challenge the fact that they had been amended.

The Constitution clearly states that the time limits for appeals begin to run from the time an appellant first becomes aware, or reasonably should have become aware of the alleged action or decision being appealed. The action being appealed here was the amendment to the Interpretations. Information concerning that action was available to Yettaw in December 2002. He did not file an appeal regarding the matter until he first submitted his appeal to the PRB on January 22, 2004. This was far beyond the 30 day time limit for appeals to the PRB set forth in Article 33, §4, of the International Constitution.

The decision of the IEB is affirmed.