

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

APPEAL OF:

PHILLIP H. HILL, SR., Member,
UAW LOCAL UNION 212
(Sterling Heights, Michigan),
Appellant

-vs-

CASE NO. 1471

UAW LOCAL UNION 212 EXECUTIVE BOARD
REGION 1
(THE UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA),
Appellee.

DECISION

(Issued May 25, 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.

Phillip Hill argues that his appeal of the Local Executive Board's rejection of his charges against the Local Recording Secretary satisfied the time requirements of Article 33, §4(c), of the Constitution and that his charges against the Local Union President satisfied the requirements of Article 31, §3, of the International Constitution.

FACTS

On April 10, 2003, UAW Local 212 member Phillip Hill submitted charges against the Local's Recording Secretary, Ron Sheridan, pursuant to Article 31 of the International Constitution. Hill charged that Sheridan had been conducting an illegal gambling game on DaimlerChrysler's premises for a number of years.¹ Hill attached to

¹ Hill's charge states:

"I, Phillip H. Hill, Sr., would like to file a charge of conduct unbecoming a member of the Local 212 UAW Union. The Recording Secretary, Ron Sheridan of the Local 212 UAW Union has participated in an illegal gambling game at METD for a number of years. Ron Sheridan has been allowed to represent me (Phillip Hill, Sr.) in numerous hearings on behalf of the Local 212 UAW Union.

his charge lists dating back to 1993, which he claimed were prepared in connection with an illegal lottery game.² He stated that hundreds of the Local Union's members and some members of Management participated in the game. He wrote that the game may still be continuing today.

On June 4, 2003, the Local 212 Executive Board notified Hill that it had reviewed his charges against Recording Secretary Sheridan and found them to be untimely. On June 27, 2003, Hill filed charges against the Local Union's President, Roger Bogel, stating that his handling of the charges he had filed against Recording Secretary Sheridan violated the International Constitution.³ Hill stated that on May 20 Bogel told

Enclosed please find copies of three (3) lists of the illegal lottery gambling games which hundreds of Local 212 Union members and some members of management participate in. In Section 2 of the Constitution members are told to submit a charge to the Recording Secretary of the Local 212 Union. The person charged is the Recording Secretary of the Local 212 Union. The President of the Local 212 UAW Union, Roger Bogel, sends Ron Sheridan to represent him in hearings involving members of the UAW Local 212 Union.

Ron Sheridan has violated Standards of Conduct: #14 Threatening, intimidating, coercing, harassing, retaliating or using abusive language to others; #22 Engaging in, participating in, aiding or approving conduct constituting or appearing to constitute a conflict of interest of the Corporation; #24 Gambling, conducting games of chance or possessing gambling equipment on Corporation premises; #32 Conducting a check cashing service or other business enterprise or engaging in any illegal act such as 'loan sharking' while on corporate premises. Because Ron Sheridan's actions have caused me personal harm, I would appreciate a full investigation into his matter.

As long as Ron Sheridan is allow[ed] to sit in judgment of fellow Union members, he can use his authority to retaliate on people who have implicated him in the past for his illegal participation in these illegal activities." (Record, p. 2)

² Record, pp. 4-17.

³ Hill's charge against President Bogel states:

"Due to his (Roger Bogel) actions and total disregard of me (Phillip Hill) and the UAW Constitution, I, Phillip Hill, file this charge against Roger Bogel, President of UAW Local 212.

On May 20, 2003, in the presence of Conrad Kruzinski (Union Steward at M.E.T.D.), approximately 40 days after I, Phillip Hill, had followed the Constitution to the letter in filing the charge against Ronald Sheridan, Roger Bogel told me he had given my charge to Ronald Sheridan and for me to call him (Ronald Sheridan, Recording Secretary, UAW Local 212). On April 10, 2003, I hand-delivered a charge against Ronald Sheridan, Recording Secretary, Local 212, to Roger Bogel. The next day people in the plant were talking about the list that I, Phillip Hill, gave to Roger Bogel. After the statements by Roger Bogel, I called the office of the International President, Ron Gettelfinger, because I did not know what to do about the situation. I was told by a representative of the International not to call Ronald Sheridan. They would call the Local.

Approximately 57 days after the charge was delivered and 2 calls to the International President's office, I received an answer to the charge from the UAW Executive Board of Local 212 (Copy enclosed). The gambling list (Copy enclosed) presented to the UAW

him that he had given the April 10 charges to Recording Secretary Sheridan and that Hill should call Sheridan about them. Hill stated that he did not receive the Local Executive Board's ruling on his charges until 57 days after the charges were delivered to President Bogel.

On July 9, Recording Secretary Sheridan sent a letter to Hill asking him to clarify his charge against President Bogel. On July 22, 2003, Recording Secretary Sheridan advised Hill that he should disregard the previous inquiry and that his charges against President Bogel would be presented at the next meeting of the Local Executive Board. In the meantime, Hill had asked the International President's office to rule on the merits of his charges. He stated:

"Based upon Ronald E. Sheridan's answer to my charge against Roger Bogel, President of Local 212, I, Phillip H. Hill, would appreciate it if the International Office of the UAW would accept the information presented to Local 212, in my original charge, and rule on its merit."⁴

This request bears a stamp showing that it was received on July 21, 2003. Presidential Administrative Assistant Eunice Stokes-Wilson responded to Hill's request on August 8 by advising him that his appeal would be presented to the Local Executive Board at its next meeting.

On July 28, 2003, Stokes-Wilson wrote to Hill in response to a letter she describes as having been hand-delivered to the International Union on July 15, 2003.⁵ Stokes-Wilson wrote that Hill's request to appeal the Local Executive Board's ruling was untimely under Article 33, §4(c), of the Constitution which requires appeals to the International Executive Board (IEB) to be presented within thirty days after the appellant became aware, or reasonably should have become aware of the action being appealed. She pointed out that Hill had received the Local Executive Board's ruling on his charge on June 6, 2003, and that his request to appeal was hand-delivered to the President's office on July 15, 2003, or forty days later.⁶

Hill attempted to appeal Stokes-Wilson's ruling that his appeal was untimely to the Public Review Board (PRB) on August 25, 2003. On October 1, Stokes-Wilson advised Hill that his appeal to the PRB was premature, but that his appeal on the question of timeliness would be presented to the IEB. Her letter states:

Local 212 President Roger Bogel did not indicate when the gambling stopped, only approximate time it began. It is possible that it may be going on as of this day." (Record, p. 19)

⁴ Record, p. 23.

⁵ There is no letter in the record date-stamped July 15, 2003.

⁶ Stokes-Wilson does not identify the subject of the appeal, but this was apparently an appeal from the Local Executive Board's ruling on Hill's charges against Sheridan.

“The PRB does not have [appellate] jurisdiction without an International Executive Board decision. Therefore an International Executive Board decision will be issued pursuant to your appeal of August 25, 2003. **The Appeal will be limited to the question of timeliness.”⁷**

In support of his claim that his charge against Sheridan was timely, Hill submitted a copy of a charge dated October 21, 2002, that he claimed he had attempted to present during a hearing conducted on behalf of the International President in connection with a grievance appeal in 2003.⁸ At the bottom of the charge, he wrote:

“[Presidential Administrative Assistant] Dottie Jones called me at 5:00 pm on 4-9-03 told me to go through proper steps in my case. She told me what to do.”⁹

In the meantime, the Local 212 Executive Board reviewed Hill’s charges against President Bogel and found them improper pursuant to Article 31, §3(d), of the International Constitution. Hill was notified of the Local Executive Board’s action on September 11, 2003, and he appealed that decision to the IEB on September 29, 2003.

Administrative Assistant Stokes-Wilson prepared a report for the IEB on her ruling that Hill’s appeal from the Local Executive Board’s decision on his charge against Sheridan failed to satisfy the time requirements of Article 33, §4(c), of the Constitution. Stokes-Wilson stated that if an appeal is not submitted within the time frame set forth in the Constitution, the IEB is foreclosed from considering it. She held that Hill’s appeal could not be considered because it had not been submitted within 30 days from the day when Hill was notified of the Local Executive Board’s decision. The IEB adopted Stokes-Wilson’s report as its decision and notified Hill on October 15, 2003.

President Gettelfinger’s staff also prepared a report for the IEB on Hill’s appeal from the Local Executive Board’s ruling that his charge against President Bogel was improper under Article 31, §3(d), of the Constitution. The staff concluded that the charge did not state a violation of the Constitution or conduct unbecoming a union

⁷ Record, p. 36. (Emphasis in original.)

⁸ Hill referred to his attempt to present documents to support the charge dated October 21, 2002. In the charge that he presented to President Bogel on April 10, 2003, he wrote:

“This information was submitted in documents which I gave to the Appeals Board on Tuesday, October 8, 2002, at the UAW Region 1 office at 27800 George Merrell Drive in Warren, Michigan. The Appeals Board (Joe Halapi and Janice White) would not accept this information as part of my case. The copies of documents submitted dating back to 1993 will show the duration of the illegal gambling which may be continuing today.” (Record, p. 2)

⁹ Record, p. 44

member and that it therefore failed to meet the requirements of Article 31, §3(c), of the Constitution. The staff's report states:

“Clearly, the act of giving written charges to the Recording Secretary even knowing that the charges are against the Recording Secretary would not serve to be a violation of the International Constitution by the Local Union President. We are unable to determine by the record why the Local Union Executive Board took so long to consider the charges against the Recording Secretary. We do know that the Local Union Executive Board did finally act on his original charges against the Recording Secretary and that the appellant did appeal the Local Union Executive Board's decision to the International Executive Board.”¹⁰

The IEB adopted this report as its decision and notified Hill on November 13, 2003.

Hill appealed both of the IEB's decisions to the PRB, and we docketed his appeal on February 6, 2004. On April 19, Hill forwarded to our office a copy of a letter dated July 2, 2003, addressed to the International President appealing the action of the Local 212 Executive Board on Hill's charges against Sheridan.¹¹ Hill stated that this letter proved that he had filed a timely appeal from the Local Executive Board's ruling on his charges against Recording Secretary Sheridan.

ARGUMENT

A. Phillip H. Hill, Sr.:

Every letter and appeal I have written concerning the illegal gambling at METD has been answered by claims that I have not provided enough information, or that I have followed the wrong procedure or that the complaint is untimely. These are only delay tactics. This situation has been going on for over 20 years. Every time I have been disciplined, Ron Sheridan has been involved and I have come out on the losing end. As a result of my reporting his involvement, and that of some members of DaimlerChrysler management, in illegal gambling, I have been lied about, harassed, severely disciplined and fired unjustly for 14 months. Ron Sheridan has been in attendance in each instance, and even represented me. When people who hold positions where they can do harm to others are exposed in a crime, they ought to be disciplined.

¹⁰ Record, p. 50.

¹¹ Record, pp. 72-73.

B. International Union:

Hill's appeal to the IEB from the Local Executive Board's ruling on his charges against Sheridan clearly occurred after the time limits prescribed by the International Constitution. The PRB has long held that it has no authority to modify or disregard any limitations period established by the International Union. *Friego v. Local 2185*, 6 PRB 212, (1991). Therefore, the IEB's holding that Hill's July 15, 2003, appeal was untimely should be affirmed.

The appellant's charge against the Local Union President alleged no violation of the International Constitution. The record indicates that Hill's charge against Recording Secretary Sheridan was properly placed before the Local Executive Board for action. Therefore, the IEB's holding that the appellant's June 27, 2003, charge was improper under Article 31, §3(c), should be affirmed.

DISCUSSION

Unfortunately, the July 15 appeal letter that Administrative Assistant Stokes-Wilson refers to in her letter of July 28, 2003, has apparently been lost. It was not forwarded to our office as part of the record in this appeal. Stokes-Wilson describes the letter as having been hand-delivered on July 15, 2003. Hill acknowledged having received the Local Executive Board's decision on his charges against Recording Secretary Sheridan on June 6, 2003. An appeal on July 15, therefore, would not meet the thirty day time limit for appeals to the IEB set forth in Article 33, §4 (c), of the International Constitution.

There is no credible evidence in the record to contradict Stokes-Wilson's report that Hill's appeal was not received by the International Union until July 15. The appeal letter dated July 2, 2003, which Hill submitted on April 19, 2004, does not have any date-stamp to show that it was ever received by the International Union. Hill has not produced any acknowledgment of the letter by the International Union to show that this alleged appeal was ever received. Furthermore, when Administrative Assistant Stokes-Wilson advised Hill that she was presenting his appeal to the IEB, she emphasized the point that the appeal would consider only the question of timeliness. If Hill had a copy of this July 2, 2003, appeal letter on October 1, 2003, when Stokes-Wilson advised him that his appeal of her ruling on the question of timeliness would be presented to the IEB, he ought to have produced it then. He offers no explanation for having failed to do so. His attempt to correct the record at this point comes too late. Therefore, we affirm the IEB's ruling that Hill's appeal of the Local Executive Board's action on his charges against Recording Secretary Sheridan was untimely.

Our ruling does not address the merits of Hill's charge. Hill complains that every attempt he has made to raise the problem of gambling on the Company's premises has been dismissed on procedural grounds. Gambling in the workplace might be an appropriate subject for charges under Article 31, if employees were unfairly exploited. However, such charges would have to meet the specificity requirements of Article 31,

§3(a) and (b), of the Constitution, by stating exactly what was done, by whom, and on what date. If Hill acquired evidence that gambling was still going on, that evidence could still form the basis of a future charge.

Hill's charge against President Bogel was properly disqualified under Article 31, §3(c), of the Constitution. Although it was proper under the Constitution for Hill to present his charge against the Local Recording Secretary to the Local President, it was not a violation of the Constitution or conduct unbecoming a union member for the President to refer the charge to the Recording Secretary for processing. There is no claim that the Recording Secretary deliberately delayed the processing of the charges. The delay could have resulted from any number of causes. The charges were eventually presented to the Local Executive Board for evaluation under Article 31, §3, as required by the Constitution.

The decision of the IEB is affirmed.