

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

APPEAL OF:

WILLIAM BELL,
Appellant

-vs-

CASE NO. 1725

LOCAL UNION 140, UAW
(Warren Michigan)
REGION 1
(THE UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA),

Appellee.

DECISION

(Issued September 28, 2015)

PANEL SITTING: Prof. Janice R. Bellace, Chairperson,
Prof. James J. Brudney, Prof. Harry C.
Katz, and Prof. Maria L. Ontiveros.

William Bell argues that he should have been eligible to run as a candidate for committee chairperson during elections conducted by UAW Local Union 140 in 2014. Bell further asserts that other problems occurred during the election that ought to be addressed.

FACTS

William Bell works at the Warren Truck Assembly Plant (WTAP) in a bargaining unit represented by UAW Local Union 140. He has worked at the Warren plant since 1987. Prior to the election conducted by Local 140 on April 8 and 9, 2014, Bell held the position of committeeperson for the paint shop at WTAP.¹ During a nominations meeting held on March 9, 2014, Bell accepted nomination to be re-elected to his committeeperson position. A nominations notice indicates that William Bell accepted nomination to run for Committeeperson – Division 1.²

On March 18, 2014, Election Committee Chairperson Samuel Jones sent Bell a certified letter informing him that he was ineligible to run in the upcoming election because he had not maintained his membership in good standing for one year prior to

¹ Record, p. 11

² Record, p. 7.

nominations.³ Bell appealed Chairperson Jones's ruling to the local union membership on April 16, 2014.

In support of his appeal, Bell explained that he had been discharged on May 12, 2012, and a grievance protesting the discharge was still pending at the Appeal Board step of the grievance procedure. Bell reported that Local 140 President Mark Dickow told him there was nothing for him to do but be patient. Bell stated that he believed that his membership in good standing would continue while he was discharged based on President Dickow's advice and an interpretation to Article 45, §1 of the UAW Constitution. Bell's appeal states:

"...On numerous occasions since May 14, 2012, I have discussed the disposition of my grievance with the President of Local 140 Mark Dickow and was told that it was nothing else for me to do and he was moving my grievance to the next step of the grievance procedure and the only thing to do was wait for its disposition. I relied on what President Dickow told me and the language in our UAW Constitution on page 208 interpretation (Article 45, Section 1), which states as long as my grievance was pending, if otherwise eligible, I could run for re-election or other offices in the local or for convention delegate. ..."⁴

Bell stated that he is aware of numerous employees who have been reinstated after being discharged for more than six months, with no interruption in their good standing as members of the local union. Bell referred to the case of Committeeperson Marty Horton of the paint shop who was discharged on October 23, 2002, and was reinstated on January 21, 2004, without any interruption in his good standing. Bell stated that Horton was allowed to run for re-election to his committeeperson position in 2005. In addition, Bell reported that Howard Watson of the paint shop was discharged on August 8, 2013, and returned to work on March 18, 2014. Bell reported that Watson was permitted to run for committeeperson in the 2014 election conducted by Local Union 140. Bell asked that the election for Division 1 Committeeperson of the paint shop be rerun with him as a candidate.⁵

Bell's appeal was read at a Local 140 executive board meeting on May 16, 2014. The minutes of that meeting report that after a discussion of Bell's appeal and a vote, the executive board denied the appeal.⁶ The membership adopted a motion to concur with the executive board's recommendation during a meeting on May 18, 2014.⁷ Local 140 Recording Secretary Marylyn Bonds notified Bell of the executive board's and the

³ Record, p. 9.

⁴ Record, p. 13.

⁵ Record p. 13.

⁶ Record, p. 16.

⁷ Record, p. 19.

membership's actions on May 19, 2014.⁸ Bell appealed the membership's decision to the International Executive Board (IEB) on May 27, 2014.⁹

In his appeal to the IEB, Bell argued that the election committee at Local Union 140 committed a number of errors in addition to declaring him ineligible to run for committeeperson. He stated that the election committee violated Article VIII, Section 11 of the local union bylaws by failing to use the services of a certified public accountant (CPA) to conduct the election. In addition, Bell charged that the election committee improperly declared employees on medical leave ineligible to vote for chief steward or committeeperson.¹⁰

Local Union 140 responded to an inquiry from the International President Dennis Williams's staff regarding Bell's appeal on August 7, 2014. Election Committee Chairperson Sam Jones explained that after Bell accepted nomination for Division 1 Committeeperson and his name appeared on the ballot, the election committee began to receive complaints from other candidates running for that office asserting that Bell was ineligible to run because he was not a member in good standing. Chairperson Jones reported that he researched the issue and determined that Bell was ineligible to run pursuant to Article 16, §18 and §19 of the UAW Constitution.¹¹

Jones reported that the election committee decided not to use a CPA as a cost saving measure for the local union. He observed that the local executive board and the general membership approved the election committee's decision. Jones further reported that the election committee members were told during a training session at Region 1 that laid off members and members on medical leave could only vote for executive offices. He explained that it was too hard to determine if employees on medical leave would return to the units represented by committeepersons and stewards.¹² In any event, Jones reported that the votes of employees on medical leave could not have affected the outcome of any of the races for steward or committeeperson. Jones wrote:

“Brother Bell referenced members who are [on] medical that are not allowed to vote for their steward or committeeman. On a six-month average, there are 27 members per week that are on medical, which is three (3) people per department that are out on medical. With that being

⁸ Record, p. 20.

⁹ Record, p. 21.

¹⁰ Record, p. 21.

¹¹ Record, p. 26.

¹² Record, p. 26.

said, the number of people out on medical would not change the outcome of the election.”¹³

Local 140 President Mark Dickow provided a statement to the IEB regarding Howard Watson’s eligibility to run for committeeperson. Dickow referred to the six-month period during which a discharged employee is entitled to “out-of-work” credits in accordance with Article 16, §18 and §19 of the 2010 UAW Constitution. Dickow stated that Watson was eligible to run in the 2014 election because his dues were paid through August 2013 and he was reinstated within the six-month period following his discharge in August. Dickow reported that Bell was discharged in 2012 and not reinstated until July 2014. Dickow stated that Bell’s membership was no longer in good standing when the local union conducted its elections in March 2014.¹⁴

President Williams’s staff determined that a hearing was unnecessary on Bell’s appeal. Acting on the president’s behalf, staff prepared a report to the IEB on Bell’s appeal based on information provided by the parties. Staff found that the local election committee correctly determined that Bell was ineligible to run for union office because he was not a member in good standing. Staff reported that Bell had not followed the UAW Constitutional procedures for maintaining his membership in good standing during the period of his discharge. Staff referred to Article 16, §26 and §27 of the 2014 UAW Constitution.¹⁵ Staff observed that the local union had explained why member Howard Watson was eligible to seek office even though he had been discharged during the period leading up to the election.¹⁶

Staff reported that the election committee complied with the local union bylaws by obtaining the approval of the membership to conduct the election without a CPA.¹⁷ Staff reported that the decision not to allow employees on medical leave to vote for stewards and committeepersons was based on Article 45, §2 of the UAW Constitution, which states, in pertinent part, as follows:

“Members in good standing who are on indefinite layoff from the employer may not be a candidate for, or vote in, an election for a non-executive local union office that has grievance handling, contract bargaining or contractual administrative duties, unless specifically authorized to do so by local union bylaws or applicable collective bargaining agreement.”¹⁸

¹³ Record, p. 27.

¹⁴ Record, p. 29.

¹⁵ These sections are identical to Article 16, §18 and §19 of the 2010 Constitution.

¹⁶ Record, p. 45,

¹⁷ Record, p. 47.

¹⁸ Record, p. 48.

In any event, staff noted that the disqualification of these members to vote in committeeperson elections had no impact on Bell's election, because he was ineligible to run for local union office in the 2014 election.¹⁹

Staff concluded that no improprieties occurred during the 2014 election at Local Union 140. Based on this conclusion, staff denied Bell's appeal. The IEB adopted staff's report as its decision. President Williams provided Bell with a copy of the IEB's decision on March 2, 2015.²⁰ Bell has now appealed the IEB's decision to the Public Review Board (PRB).

ARGUMENT

A. William Bell:

As I stated in my appeal, Howard Watson was discharged in August of 2013 and returned to work on March 18, 2014, which was in the seventh month of his discharge. The IEB's decision states that Watson was reinstated within six months of his discharge and that is wrong. The text from Article 16 quoted by the IEB in its decision does not mention any grace period. It states that an employee must report his or her layoff, leave of absence, or discharge to the financial secretary. Article 16, §19 provides that a discharged member must certify that he or she is entitled to "out-of-work" credits during the last ten days of the six month period following his discharge. Mr. Watson did not do this, yet he was permitted to run in the 2014 election.

The IEB argued that the rule disqualifying members on medical leave from voting for stewards and committeeperson is based on Article 45, §2 of the Constitution. I disagree with that interpretation of Article 45, §2. The section states that persons on indefinite layoff may not be a candidate or vote in elections for a non-executive office that have grievance handling or bargaining responsibilities. It does not say anything about employees on medical leave. Members on medical leave were denied their right to vote for non-executive offices in this election.

B. International Union, UAW:

Bell was not a member in continuous good standing for one year prior to the election at Local Union 140; therefore, he was not eligible to participate in the election in accordance with the Election Guidelines adopted by the election committee. The member described by Bell who was permitted to run in the election was not similarly situated. Howard Watson was in good standing for a year prior to the election. In any event, regardless of Watson's situation, Bell has not provided any rebuttal to the election committee's conclusion that his membership in good standing had lapsed prior to the election.

¹⁹ Record, p. 48.

²⁰ Record, p. 35.

The membership did not violate its bylaws by conducting the election without a CPA. The membership did not approve the use of a CPA. Instead, the membership approved the Election Guidelines allowing the election committee to handle all aspects of the election.

The local union's decision not to allow employees on medical leave of absence to vote for stewards and committeepersons is supported by Article 45, §2, of the Constitution. The term "indefinite layoff" in Article 45, §2 is properly read as covering members who are indefinitely absent from their job, whether the reason is a medical layoff or a volume-related layoff. The purpose of the section is to allow members in good standing to vote for executive officers who represent the entire local union, while limiting voting for committeepersons and stewards to members who are actually in the workplace in those representatives' districts or divisions. This purpose is served regardless of the reason for the member's indefinite layoff. In any event, Bell has not demonstrated that this rule had any effect on the outcome of the race in which he was a candidate.

DISCUSSION

We have already addressed Bell's argument that the bylaws of Local Union 140 require a CPA to conduct local union elections. In *Pearson v. Local Union 140, UAW*, PRB Case No. 1723, (2015), we held that the bylaw only requires the use of a CPA upon approval of the membership. In this case, the membership accepted the election committee's decision not to use a CPA for the 2014 election.

Bell's argument about the proper interpretation of Article 45, §2, is not before us. The interpretation clearly had no bearing on Bell's situation, because he was declared ineligible to run for office. No member on extended medical leave has come forward to complain that he or she was denied the right to participate in the election. Any comments on the issue in the context of this appeal would be entirely speculative. The only question presented by this appeal, therefore, is whether Bell was properly disqualified from running for office.

We were unable to answer this question based on the record we received with this appeal. The local union and the IEB cited provisions of the Constitution describing how a discharged member maintains his good standing, but they did not report how Bell's situation fit within those requirements. The actions required of a member who has been separated from regular employment covered by dues check-off provisions to maintain good standing in the local union depend on the member's employment status during the period of his or her separation. A member who finds other employment during the period of his discharge is required to report that to the local financial secretary and to pay dues based on the income he receives. There was nothing in the record to indicate whether Bell had secured other employment during his discharge.

Furthermore, the record did not reveal whether any communications took place between Bell and the local union regarding his dues obligations while he was on

discharge. We have previously ruled that members have an absolute right to rely on the local financial secretary's instructions for maintaining good standing while on discharge or layoff, even if the financial secretary's instructions later turn out to be technically incorrect, because the language in the Constitution describing the requirements is so dense and difficult to comprehend.²¹ We needed to know whether Bell was given any instruction about what was required to maintain his good standing during the period of his discharge, because he would have been entitled to rely on any instructions he received.

We sent an inquiry to the parties in order to resolve these questions of fact. Bell has confirmed that he had no other employment during the period of his discharge.²² In response to our inquiry whether he received any instruction regarding his obligation to report his lack of employment to the financial secretary during the period of his discharge, Bell referred to President Dickow's advice that there was nothing for him to do but be patient and his reliance on the interpretation to Article 45, §1 of the Constitution addressing the eligibility of a discharged committeeperson to seek union office. President Dickow's statement to Bell that there was nothing for him to do clearly referred to action with respect to his grievance rather than his membership in good standing. Bell apparently did not seek advice from the local financial secretary about maintaining his good standing while he was discharged, because he believed that his membership status would continue as long as he had a grievance pending. Bell states that this belief was based on an interpretation of Article 45, §1 in the UAW Constitution. The interpretation states:

“(1) Eligibility for committeeperson as affected by unlawful discharge:

Where a committeeperson is discharged by management and her/his grievance is pending, s/he remains a member of her/his local and unit and, if otherwise eligible, may run for re-election or other office in such unit or local or for Convention delegate. And where pending the outcome of her/his grievance s/he finds temporary employment elsewhere her/his membership in her/his original local is not affected and s/he need not transfer to the local having jurisdiction over her/his new workplace. The new local should issue to her/him a work permit. (Detroit, 1/22/46, Pages 177-178.)”²³

The interpretation Bell relied on does not address membership in good standing. The interpretation concerns a discharged committeeperson's eligibility to run for re-election in his original unit even though he may have found work in another unit. Significantly, it also states that the committeeperson may run for re-election if otherwise

²¹ *Karras v. Local Union 653, UAW*, PRB Case No. 1512, 13 PRB 88 (2005), at 96.

²² Record, p. 72.

²³ This Interpretation is found on page 208 of the 2010 Constitution. It appears on page 205 of the 2014 Constitution.

eligible. In order to remain eligible to run for re-election, Bell was required to maintain his membership in good standing by following the procedures described in Article 16, §19 of the Constitution. That section requires a discharged member to certify that he or she remains eligible to continue membership in good standing without the payment of dues. The Constitution refers to the right of discharged members to continue their good standing without the payment of dues as “out-of-work” credits.²⁴ There is no dispute that Bell failed to certify his entitlement to “out-of-work” credits during the period of his discharge.

In support of his appeal, Bell reports that the certification requirement has never been strictly applied at Local Union 140. He identifies other members who remained on discharge for longer than six months and who were nevertheless permitted to run for union office. Furthermore, Bell maintains that his reliance on the interpretation to Article 45, §1 was reasonable. Bell argues that the application of the certification requirement to disqualify him from seeking re-election to his position of committeeperson amounts to an unfair application of union rules. We conducted an extensive analysis of this very argument in *Bradley et al. v. Local Union 3520*, PRB Case No. 1609 (2009).

The appellants in *Bradley* also cited the interpretation of Article 45, §1 as the basis for their belief that as discharged union officers, they were not required to pay dues or to certify for “out-of-work” credits. We found the appellants’ reliance on this interpretation to be mistaken. The opinion states:

“The source of appellants’ misunderstanding regarding their dues obligations was apparently the Interpretation of Article 45, §1, cited in their argument, which held that a committeeperson’s eligibility for office is not affected by discharge. That Interpretation has nothing to do with the member’s dues obligation. It speaks to the eligibility of a discharged

²⁴ Article 16, §19, states as follows:

“Any member who is entitled to ‘out-of-work’ credits under §18 of this Article and who does not secure an honorable withdrawal transfer card, shall be presumed to continue to be entitled to ‘out-of-work’ credits and thus remains in continuous good standing without the necessity of paying dues for the first six (6) months of such layoff or leave unless the member has had employment during this period which would necessitate her/his paying dues under the first paragraph of §18 of this Article or taking an honorable withdrawal transfer card under Article 17, §2. Unless any such member shall, during the last ten (10) days of such six (6) month period, certify in writing to the Local Union Financial Secretary, in person or by registered or certified letter, that s/he continues to be eligible for good standing membership without payment of dues pursuant to §18 of this Article and Article 17, §2, the member shall automatically be noted on the Local Union’s records as having been issued an honorable withdrawal transfer card at the conclusion of said six (6) month period. If a member does certify as provided herein during the last ten (10) days of the six (6) month period, s/he shall continue to be eligible of ‘out-of-work’ credits for each additional month if during the last ten (10) days of such month s/he similarly certifies. Such a member shall automatically be noted on the Local Union’s records as having been issued an honorable withdrawal transfer card on the first day of such a month in which the member fails to certify as provided herein.”

committeeperson to run for re-election. The section assumes the committeeperson is fulfilling the basic obligations of a Local Union member with regard to the payment of dues. If the Interpretation were about a member's dues obligations it would be associated with Article 16 instead of Article 45. Appellants' reading of this Interpretation is simply incorrect."²⁵

The more troubling aspect of the situation in the *Bradley* appeal was the local union's apparent acceptance of the appellants' good standing for months after it should technically have lapsed. The appellants in *Bradley* continued active participation in the affairs of the local union despite their discharge and no one raised any question about their standing as local union members during this period. The issue of their good standing did not surface until someone questioned their eligibility to participate in a local union election. The financial secretary had never advised appellants of the certification requirement, although she clearly understood that they intended to continue as local union members and officers. The question presented was whether appellants were entitled to rely on the financial secretary's silence as tacit acceptance of their right to continued good standing without the payment of dues.

We ultimately concluded that a local union financial secretary is not required to provide notice to a member of the certification requirement described in Article 16 of the Constitution, because the lapse of good standing under these provisions is not a punitive measure. The section functions automatically to clear the local's membership list of employees who have moved outside the jurisdiction of the local union. In most cases, such former employees have no further interest in the local union's business. Therefore, if a discharged member wishes to retain his membership in good standing in order to seek a local union office, the member is required to notify the union. Our opinion in *Bradley* stated this requirement as follows:

"In the atypical situation where the member wishes to retain his membership in order to run for office, Article 16, §19, puts the onus on the member to keep the financial secretary advised of his intentions. The financial secretary is not required to track down all members who have been separated from their employment after the expiration of the six-month period to remind them of their obligation to certify. It is the member's obligation to keep his membership active. The member's obligation in this respect is easy to understand and satisfy; the member simply has to let the financial secretary know at the end of each month that he or she wishes to continue as a member. Once that obligation is met, the member is entitled to rely on any instructions the financial secretary gives regarding the payment of Union dues."²⁶

²⁵ PRB Case No. 1609, at 27.

²⁶ PRB Case No. 1609, at 28.

It may well be that other members of Local Union 140 whose membership had technically lapsed for failure to certify for "out-of-work" credits were permitted to run for office, but if this occurred it was apparently because no one challenged these members when they accepted nomination. Bell's good standing was challenged thus prompting the election committee to investigate his status. The election committee properly declared Bell ineligible to run for committeeperson when the lapse in his good standing was discovered. Bell has not shown that the local has not applied the certification requirement to other candidates whose good standing was challenged. Although the local union might have done more to investigate what was required of Bell so as to advise him about his obligations under the Constitution, it is ultimately the discharged member's responsibility to maintain good standing in the union if in the future he intends to seek election to a local union office.

The decision of the IEB is affirmed.