

ELECTION APPEALS MASTER

IN RE: GARY FABIANO, ED TAYLOR AND
ANTHONY SGRILLO,

IN RE: ED TAYLOR and GARY FABIANO

Protestors.

11 Elec. App. 34 (KC)

ORDER

This matter is an appeal from the Election Supervisor's decisions 2011 ESD 176 and 2011 ESD 177, consolidated for purposes of the appeal. Both decisions issued March 23, 2011.

A hearing was held before me on April 5, 2011. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq., for the Election Supervisor; Denise Ventura, Investigator and Regional Director for the Election Supervisor; Bill Kane, Investigator for the Election Supervisor, Sean Dougherty, Secretary-Treasurer of Local Union 107; Anthony Sgrillo, member of Local Union 107 and Edwin Taylor and Gary Fabiano, the protesters.

These appeals address asserted violations under the Election Rules of observer rights at the printing of ballots and at the post office receipt of undeliverable ballots.

During the hearing there was extensive argument by appellants addressing asserted deficient factual findings of the Election Supervisor. It is undisputed that the printer printed ballots with no observers for the candidates present. When a count of the printed ballots was completed in the presence of observers, the number printed was 77 short of the number ordered. A complete run was ordered and certified, the ballots were folded, placed in envelopes with all addressee information properly applied and walked to the post, all in the presence of observers. The Election Supervisor on these facts found no violation of the Rules.

As to the return of undeliverable ballots, the Election Supervisor found that procedures followed, although not flawless, substantially complied with the Rules.

The factual findings of the Election Supervisor are, as noted in many of our cases covering over a twenty year period, entitled to deference absent a manifest abuse of discretion. There being none here, the Election Supervisor's decision is in all respects affirmed.

SO ORDERED:

s/Kenneth Conboy
Kenneth Conboy
Election Appeals Master

Dated: April 13, 2011