

ELECTION APPEALS MASTER

IN RE: RICHARD GALVAN,

Protestor.

11 Elec. App. 42 (KC)

ORDER

This matter is an appeal from the Election Supervisor's decisions 2011 ESD 235, 237 and 238 issued April 27, 2011. The appeal was submitted by Richard Galvan, member of Local Union 396 and candidate of the Galvan Respect and Dignity slate.

A hearing was held before me on May 3, 2011. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq., for the Election Supervisor, Maureen Geraghty and Rochelle Goffe, Investigators for the Election Supervisor, David Hoffa for the Herrera slate, Richard Galvan, protester, Robert Grandados and David Wuence Galvan slate candidates and Don Hennessey, David Martinez, Ed Lau, Ralph Lopez, Eddie Alatorre and Nick Dimmock.

Appellant Galvan seeks review and reversal of three determinations of the Election Supervisor, one denying a claim of retaliation for campaign activity, and two others denying claims of interference with campaign activity.

The appeals submission of Jeffrey Ellison dated May 5, 2011 and his persuasive argument during the hearing provide ample basis for sustaining the Election Supervisor's decisions on both campaign interference protests. Ten witness statements have been submitted by Mr. Galvan after the hearing and without permission of the Appeals Master, although a number of these witnesses were on the hearing teleconference but said nothing. Furthermore, the statements are not signed, and it appears because of style, vocabulary and structure, that all the statements were authored by a single individual. That being said, the substance of these purported statements describe angry and

confrontational exchanges between rival political factions, with provocative and in some cases foul language, all not uncommon in the heat of campaigning for federal, state, local and union office. In any case, the proper forum for presentation of this evidence was the Election Supervisor's investigation. Inexplicably this was not done by the protester. Accordingly, it will not be considered here.

The retaliation claim, being more substantial, was forcefully argued by both Robert Grandados, against whom the retaliation was purportedly directed, and Rochelle Goffe, the Election Supervisor's investigator, who originally took Mr. Grandados' statement and made notes reflecting its substance.

Mr. Ellison has obtained and submitted those notes for my review. The document broadly supports Ms. Goffe's account of the interview and more importantly supports fully her conclusion that the record does not provide an adequate basis to find that retaliation as prohibited by the Election Rules occurred here.

Accordingly, the decision of the Election Supervisor denying all three protests is in all respects affirmed.

SO ORDERED:

s/Kenneth Conboy
Kenneth Conboy
Election Appeals Master

Dated: May 10, 2011