

**ELECTION APPEALS MASTER
FOR THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

IN RE: JAIME VASQUEZ

Protestor.

**2021 EAM 16 (SUPPLEMENT)
ISSUED: May 11, 2021
APPEAL OF ELECTION SUPERVISOR
PROTEST DECISION 2021 ESD 109
OES CASE NO. P-114-031721-FW**

Protest Decision 2021 ESD 109 (“ESD 109”), which addresses an order to show cause, was issued on April 27, 2021 (OES Case No. P-114-031721-FW) by the Election Supervisor. The Election Supervisor ordered the Members for Members 542 slate to show cause why the Local Union 542 delegates and alternate delegates election should not be rerun, with the rerun election occurring at the expense of the slate. The Election Supervisor further ordered the slate to show cause why four delegate candidates – Derek Correia, Craig Chappell, Norman Saucedo, and Javier Sanchez – should not be disqualified, whether from the election just concluded or, if one is ordered, from a rerun election. Finally, the Election Supervisor ordered the slate to show cause why all members of the slate should not be disqualified.

The Members for Members 542 slate timely responded to the show cause order. On April 27th, the Election Supervisor ordered that Local Union 542’s delegates and alternate delegates election be rerun, that Correia, Chappell, Saucedo, and Sanchez be disqualified from the rerun election, and that the expense of the rerun election be paid by the members of Local Union 542 through their local union treasury. In addition, the Election Supervisor ordered that once a schedule for the rerun election is established, a notice of the rerun election (attached to ESD 109) shall be posted on all union bulletin boards.

On April 29, 2021, Derek Correia, on behalf of Members for Members 542, appealed the decision. On April 30th, by Notice of Hearing, the Election Appeals Master scheduled a telephonic hearing for May 3, 2021. On May 3rd, the Office of Election Supervisor submitted supplemental argument in support of its position.

A telephonic hearing was held on May 3, 2021. The following individuals attended the hearing: Jeffrey J. Ellison, Esq., Michael Miller and Deborah Schaaf on behalf of the Office of the Election Supervisor; Jaime Vasquez, Secretary-Treasurer of Local 542, and Phil Farias, President of Local 542; Derek Correia, Javier Sanchez, Norman Saucedo, Genaro Ventura, Eric Robinson, Adan Pelayo, Trent Moran, Fernando Lozano and Russell Hilke – all members of Local 542.

On May 4, 2021, I issued a summary order in this matter. *See Vasquez*, 2021 EAM 2016 (May 4, 2021). This opinion supplements that order.

Background

On April 9, 2021, the Election Supervisor issued Protest Decision 2021 ESD 104 (2021 ESD 104). In that decision, the Election Supervisor determined that members and supporters of the Members for Members 542 slate (the “M4M Slate”) repeatedly violated the Rules by campaigning at employer worksites in areas where there was no preexisting right to do so. *See Vasquez*, 2021 ESD 104 at 8 (April 9, 2021). The Election Supervisor also found that in the weeks leading up to Local 542’s election, the M4M Slate members and supporters gained access to at least 30 to 40 employer worksites under false pretenses in order to campaign in restricted areas. *Id.* at 2, 3 and 9. The Election Supervisor also found that certain candidates on the M4M

Slate made false statements to the Election Supervisor during its investigation regarding the slate's campaign activity. *Id.*

The Election Supervisor then issued an interim remedy against the M4M slate and ordered, among other things, that it cease and desist from seeking and gaining entry to restricted areas unless certain conditions were met. *Id.* at 10. In addition, the Election Supervisor ordered M4M to produce information the slate obtained from voters in these restricted areas, issue a notice on all union bulletin boards regarding the violation and levied fines against certain members and supporters of the slate. *Id.* at 10-11. The Election Supervisor also reserved the right to issue further remedies if it determined that the Rules violations described in ESD 104 affected the outcome of the pending election.

On April 14, 2021, Local 542 tallied the ballots for its election. *See Vasquez*, 2021 ESD 108 at 1 (April 20, 2021) (ESD 108). The M4M slate won 8 of the 10 delegate candidate positions and 4 of the 6 alternate delegate candidate positions. *Id.* at 1-2. The margins of victory in the election were close. *Id.* On April 20th, the Election Supervisor issued an Order to Show Cause to M4M asserting that the misconduct gave the slate an unfair advantage because it repeatedly campaigned in prohibited locations. *See* ESD 108 at 2.

After the M4M slate responded to the Order to Show Cause, the Election Supervisor found that the campaign misconduct committed by the M4M slate unfairly impacted Local 542's election and ordered the election to be rerun. *See* ESD 109 at 3-8. It also determined that the cost of the new election would be paid by Local 542 – not the M4M slate. *Id.* The Election Supervisor also disqualified certain M4M candidates from running in the new election because

they made false statements to employers to gain access to prohibited locations and then made false statements to the Election Supervisor about that misconduct. *Id.* at 8-9. The Election Supervisor, however, permitted other members of the M4M slate to run. *Id.* Finally, the Election Supervisor also required Local 542 to post a notice on all union bulletin boards explaining the violation and sanctions. *See* the Notice attached to ESD 109.

Decision of the Election Appeals Master

Remedies issued by the Election Supervisor serve to preserve and promote the integrity of the IBT's democratic processes. *United States v. IBT*, 156 F.3d 354, 361-62. (2d. Cir. 1998). In order to ensure that elections are conducted fairly, he may take whatever remedial action is deemed appropriate. *See* Article XIII, Section 4. Further, the remedies issued by the Election Supervisor are given broad discretion and are entitled to deference on appeal. *See Hailstone & Martinez*, 10 EAM 7 (September 14, 2010).

In analyzing the appropriateness of the remedy in this matter, I rely upon the facts contained in ESD 104, which was not appealed by the M4M slate. As found in that decision, the M4M slate campaigned at a number of restricted locations within approximately 40 employer worksites in the weeks prior to the election. Based on the number of restricted locations, I agree with the Election Supervisor and find that the misconduct may have affected the outcome of Local 542's election. As such, the Election Supervisor was well within his authority to order a rerun of the election. *See DiPietro*, 2001 EAD 324 (April 20, 2001), *aff'd*, 2001 EAM 62 (April 27, 2001); *Scognamiglio*, 2001 EAD 334 (May 1, 2001), *aff'd*, 2001 EAM 66 (May 16, 2001); *see also, Schultz*, 2016 EAM 17 (April 25, 2016).

When the Election Supervisor's investigator confronted the candidates about this misconduct, they were not forthcoming about their campaign activities. During interviews with the investigator, the candidates were evasive, changed their answers and feigned ignorance at straightforward questions. At other times, they stated that their campaign activity was limited to employer parking lots despite clear evidence to the contrary. Based on that record, I am satisfied that the Election Supervisor properly concluded that certain M4M candidates obstructed the investigation and gave false statements in the course of the interviews. Thus, the disqualification of these candidates was proper. *See Payne*, 01 EAM 63 (May 3, 2001); *see also Reyes*, 2011 ESD 281 (June 18, 2011). Finally, I find the notice attached to ESD 109 describing the violations and sanctions was also proper.

Accordingly, the decision of the Election Supervisor is AFFIRMED.

SO ORDERED,

A handwritten signature in cursive script that reads "Barbara S. Jones". The signature is written in black ink on a white background.

Hon. Barbara S. Jones (Ret.)
Election Appeals Master

DATED: May 11, 2021

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