

Appeals court rules in favor of Gerawan in union vote case

By Robert
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Gerawan Farming, one of Fresno County's largest tree fruit and grape growers, won a significant court victory Thursday when a [panel of Fifth District Court of Appeal judges](#) accepted its argument that the state's Agricultural Labor Relations Board violated the law when it forced the company and the United Farm Workers union into mediation.

Thursday's decision was hailed by Gerawan officials and agricultural leaders as a win for worker rights, while union representatives vowed an appeal to the California Supreme Court.

"This is a significant victory for our employees and the entire industry," said Dan Gerawan, an owner of the company. "The court's ruling indicates that no state agency should unilaterally impose a contract on employees without a vote. This is a significant win for all ag workers who justifiably deserve to choose representatives who speak for them at the bargaining table."

The union and Gerawan have been locked in a legal battle for more than two years over who will represent nearly 3,000 of Gerawan's field workers. Although the union won the right to represent the workers in 1992, efforts to implement a contract have been wrought with problems, including a worker attempt to oust the union and subsequent legal challenges.

Gerawan argued, and the appeals court agreed, that the Agricultural Labor Relations Board should have given the company the opportunity to prove that the union abandoned the workers during its nearly two-decade absence. The board did not, and the union pushed the contract negotiations into a process known as mandatory mediation and conciliation, or MMC.

By doing so, the appellate justices wrote, the MMC process violated “equal protection principles” that constituted an improper delegation of legislative authority.

The Court of Appeal panel also explained how the Gerawan workers felt alienated from the union.

“A union that has had little or no contact with the employees or the employer over many years (here, decades) would be unlikely to have an adequate working knowledge of the employees situation,” the panel wrote. “From the employees’ standpoint, that union would be reappearing on the scene as something of a stranger.”

Armando Elenes, the UFW’s national vice president, said the process of mandatory mediation works and has been upheld by other courts.

“The 3rd District Court of Appeals in Sacramento upheld the same law in 2006 and the California Supreme Court rejected a request from growers to overturn that decision,” Elenes said. “We will appeal to the California Supreme Court. In the meantime, Gerawan farm workers will continue their fight for a fair union contract.”

Under the ruling, costs for the case were awarded to Gerawan.

Paul Bauer, an attorney representing Silvia Lopez, a Gerawan Farms employee who help the anti-union drive, called Thursday’s decision a victory.

Bauer said the decision also sheds light on what he called a secret mediation process, from which farmworkers were excluded. The decision, he said, shows the process has some significant flaws.

“While it was a lot of blood sweat and tears to get to this point, the right result has occurred,” he said. “That’s what our judicial system is about in large part — checks and balances.”

Bauer said the decision brought joy to farmworkers who have been battling to have their voices heard. But more important, he said, is that the court’s decision makes clear that UFW abandoned the workers.

“This idea of having been gone for 20 years ... by no stretch of the imagination should anyone be able to come back after such a lengthy time and pretend that it was just yesterday,” he said.

The disputed contract never was implemented, but Gerawan workers also won the right to hold an election to decide the union’s fate. The election’s ballots, however, never were counted. Unfair labor practices were filed against the farming company and the dispute became the focus of a nearly six-month administrative hearing looking into allegations of unfair labor practices and whether to count the ballots.

Assembly Member Jim Patterson, R-Fresno, introduced a bill this session in response to the protracted Gerawan legal fight. Assembly Bill 1389, or the Fair Contracts for California Farmworkers Act, would give farm workers greater access to the mandatory mediation and conciliation process. Currently, mandatory mediation does not allow workers to participate in the process or vote on the terms of the proposed agreement.

Patterson said Thursday that he applauds the efforts of the Gerawan workers.

“Their battle with the ALRB and the UFW for the same labor rights granted to union workers all across the country is a civil rights issue of our time,” Patterson said. “Now, it’s time for the ALRB to join the 21st century by modernizing their antiquated regulations to respect the will of the farm workers.”

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