

Capital Cities Broadcasting Corporation Television Station WPVI-TV and Local 804, International Alliance of Theatrical & Stage Employees, AFL-CIO, Petitioner. Case 4-RC-9184

January 14, 1972

DECISION ON REVIEW AND ORDER

BY MEMBERS FANNING, JENKINS, AND
KENNEDY

On August 27, 1971, the Regional Director for Region 4 issued a Decision and Direction of Election in the above-entitled proceeding in which he found the artists sought to be represented by the Petitioner constituted an appropriate voting group for purposes of determining their desires as to inclusion in the Petitioner's existing unit of employees in the engineering and program departments at the Employer's Station WPVI-TV in Philadelphia, Pennsylvania. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, the Employer filed a timely request for review of the Regional Director's Decision on the ground that, in finding a voting group limited to the artists to be appropriate, he made findings of fact which are clearly erroneous and departed from officially reported precedent.

On October 12, 1971, the National Labor Relations Board, by telegraphic order, granted the request for review and stayed the election pending decision on review.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the entire record in this case with respect to the issues under review and makes the following findings:

The Employer operates several radio and television stations throughout the United States. The only facility here involved is WPVI-TV in Philadelphia. The station is staffed by approximately 203 employees and is organizationally divided into seven departments: engineering, program, public affairs, news, promotion, sales, and business.

The Petitioner currently represents 21 studio technicians and 4 transmitter technicians in the engineering department. In the program department it represents

13 production crewmen, 2 film previewers and one scenic artist who doubles as a cameraman.¹ The Petitioner sought herein to represent a separate unit of all "art department" employees or, in the alternative, to add them to its existing unit. The Regional Director found a unit limited to "art department" employees inappropriate because the Employer did not have an art department and the artists who work at the station were not grouped organizationally so as to constitute a separate identifiable and distinct department entitled to establishment as a separate unit.² However, he concluded that the promotion artists and the news artist constituted an appropriate voting group in accord with the Petitioner's alternate request, despite the existence of some community of interest between them and the other employees in their respective departments, because they were, to some degree, separately supervised and located, possessed specialized skills and functions, shared a sufficient community of interest with one another, and contributed directly to the station's programming. The Employer contends the artists do not have interests sufficiently separate and distinct from those which they share with other employees in their respective departments to warrant a finding that they are an appropriate voting group. We agree.

In addition to the news artist, the news department is staffed by 2 producers, 1 assignment editor, 1 assistant assignment editor, 13 newsmen, 7 cameramen, 5 soundmen, 4 film editors, 2 writers, a film lab manager, 2 film lab technicians, a copy girl, and an office manager. The news artist is located in the news department on the fourth floor of the Employer's building and is directly supervised by the news director. He prepares illustrations used in connection with the presentation of news programs on the air, including illustrations of news events occurring in places where news cameras cannot be utilized. Thus, his work is necessarily coordinated with news programming.

Other than the promotion artists, the promotion department is staffed by a public relations director, an assistant promotion manager, two copy writers, one print shop supervisor, one printer, and two clericals. The two promotion artists included in the voting group are located on the second floor of the Employer's building and are supervised directly by the promotion department art director, who reports

¹ Not represented in the engineering department are two stationary engineers, two parking attendants, one transmitter supervisor, one clerical employee, and one porter. The unrepresented program department employees include one production manager, one operations manager, one assistant to operations manager, one remote supervisor, one traffic supervisor, five traffic clerks, one cameraman/editor, seven talent employees, two announcers, three production assistants, and two secretaries.

² Specifically, the Petitioner asserted the "art department" consisted of

the promotion department art director, two promotion artists, one syndication promotion artist and one news department artist. The Regional Director excluded the promotion department art director as he was a supervisor. Further, the syndication promotion artist was excluded from the voting group because he performed no work closely related to the station's programming. No review was sought as to these findings or to the finding that a unit limited to "art department" employees was inappropriate.

directly to the promotion manager. They prepare artwork used in connection with promoting the station's programs, including news programs. Their work appears on the air and in other media. Some of the work performed by the promotion artists is assigned to them after consultation between the art director and the promotion writers, indicating that their work is in some instances coordinated with the promotion writers.

All of the work performed by the news and promotion artists which appears on the air is first processed into slides by unrepresented film lab employees. The record does not disclose any significant work contacts between the artists and the represented employees and only minimal work contacts and interchange between the news artist and the promotion artists. There is no indication the artists share supervision in common with one another or with the represented employees. The represented employees appear to be located primarily in the

control rooms and studios on the third and fourth floors of the Employer's building.

The Board has included artists in programing units where, as here, they contribute directly to a station's programing. However, other unrepresented employees also contribute directly to this station's programing, and the artists herein have a substantial community of interest with them by reason of common supervision, work location, and integration of functions. Accordingly, as the artists constitute an arbitrary segment of the unrepresented employees, we find, contrary to the Regional Director, that they do not constitute an appropriate voting group.³ We shall therefore dismiss the petition.

ORDER

It is hereby ordered that the petition filed herein be, and it hereby is, dismissed.

³ *Solar Aircraft Company*, 116 NLRB 200; *Minneapolis-Honeywell Regulator Company*, 116 NLRB 1324. In our opinion, *The Martin Company*,

162 NLRB 319, relied on by the Regional Director, is factually distinguishable.