

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CARL E. BISHOP,
1950 Bold Springs Road
Monroe, GA 30656

and,

OSCAR INGRAM,
2000 Ogletree Road
Greenville, GA 30222

Plaintiffs,

vs.

INTERNATIONAL ASSOCIATION OF
BRIDGE, STRUCTURAL, ORNAMENTAL
AND REINFORCING IRON WORKERS
1750 New York Ave, N.W., Ste 400
Washington, DC

Defendant.

Civil Action No. 03-344

Judge Kessler

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

This action is brought by two union members against their union to set aside their unlawful discipline for protected speech, and in violation of their due process rights, in violation of Title I of the Labor Management Reporting and Disclosure Act of 1959 ("LMRDA"). 29 U.S.C. § 401, et seq. In addition, plaintiffs seek, inter alia, to have the Court declare null and void language in the union constitution which served as the basis for their discipline, which language also infringes and chills the exercise of the members' Title I rights.

PARTIES

1. The International Association of Bridge, Structural, Ornamental & Reinforcing Iron Workers (hereinafter, "Iron Workers" or "International Association") is a labor organization within the meaning of 29 U.S.C. § 402(i).

2. Carl Bishop is a member of the International Association and Local 387 within the meaning of 29 U.S.C. § 402(o); he has been affiliated with the Iron Workers for more than 20 years, and with Local 387 for 7 of those years.

3. Oscar Ingram is currently, and has been since December, 1966, a member of both the International Association and Local 387 within the meaning of 29 U.S.C. § 402(o). In addition, Ingram is one of three Trustees of Local 387, having first been appointed to that position by the Iron Workers in February, 2000, and having subsequently been elected to that office in April, 2001.

JURISDICTION

4. This court has jurisdiction pursuant to 28 U.S.C. § 1331, and 29 U.S.C. §§ 185 and 412.

VENUE

5. The Iron Workers Union is located in the District of Columbia. Accordingly, venue lies in this District pursuant to 29 U.S.C. § 412.

THE FACTS

6. In recent years, Plaintiffs Bishop and Ingram have collaborated with several other members of Iron Workers Local 387, located in Atlanta, Georgia, and various law enforcement officials, in an effort to obtain information from the Local and its officers concerning the expenditure of members' dues money and to hold its officers and agents accountable under Title V of the LMRDA ("Fiduciary Responsibility of Officers of Labor Organizations"). 29 U.S.C. §§ 501, et seq.

7. In the Spring of 2002, Plaintiffs Bishop and Ingram sought to obtain verification that the Local's Business Manager, Hugh Dean Dryden Jr., had reimbursed the Local for airfare they believed that he had charged to the Local's American Express account for personal travel to New

England in February and/or March of 2002.

8. In the Spring of 2002, Plaintiff Bishop sought to obtain records of cell phone usage by Local Business Manager Dryden on an account billed to, and paid by, Local 387.

9. In June, 2002, when Bishop and Ingram had been unsuccessful in obtaining the requested information directly from Local 387 and its officers, including Business Manager Dryden, Bishop contacted outside organizations, including the U.S. Department of Labor and the National Legal and Policy Center ("NLPC"), to learn about any legal rights they might have to obtain the information.

10. On July 25, 2002, Business Manager Dryden began the Local's monthly membership meeting with a verbal tirade against Plaintiffs Bishop and Ingram, accusing them, inter alia, of going to "outsiders" with union business; Dryden incited the assembled members to a frenzied pitch, an unruly mob verging on violence, shouting and demanding that the Local "take their books," i.e., expel them then and there, such that the meeting had to be adjourned even before any of the normal business of the meeting had been conducted.

11. Shortly thereafter, various Local 387 officers and members filed written disciplinary charges against Plaintiffs Bishop and Ingram pursuant to provisions in the Ironworkers Constitution demanding that they be disciplined and that Ingram be removed from his position as an elected Trustee.

12. On information and belief, Business Manager Dryden encouraged and orchestrated the filing of these charges in collaboration with Billy Joe Walker, the International Association's General Vice-President assigned as the Iron Workers' liaison to Local 387.

13. Article XIX, Section 4 of the Ironworker Constitution provides in relevant part:

No suit or other action at law or equity shall be brought in any court . . . until and unless all rights, remedies and reasonable provisions for hearing, trial and appeal within the International Association shall have been properly followed and exhausted by the officer, member or Local Union. This provision shall require resort to internal remedies for a period not exceeding four (4) months. Violation of this Section shall be sufficient cause for expulsion from membership In addition, any officer, member or Local Union violating this provision shall be subject to a fine equal to the full amount of the costs incurred in the defense of any such action

14. Article XIX, Section 10 of the Ironworker Constitution provides in relevant part:

Charges may be preferred against any . . . member of the Association for commission of any one or more of the following offenses:

- (4) Defrauding, slandering or otherwise wronging a member of the Association.
- (6) Inciting or attempting to incite dissatisfaction or dissension among any of the members of Local Unions of the Association.
- (7) Publishing or circulating among the membership false reports or misrepresentations.

15. Article XXVI, Section 18 of the Ironworker Constitution, entitled "Obligation of Members," provides in relevant part:

I hereby solemnly and sincerely pledge my honor that I will not reveal any private business or proceedings of this Local Union or of the International Association, or any individual actions of its members . . .

16. A petition dated August 16, 2002, demanding Trustee Ingram's removal from his elected office, was also circulated by Local 387 officials among the Local's members.

17. Originally, both Bishop and Ingram were scheduled to be tried before a Local 387 tribunal on August 15, 2002; however, the trial was postponed at the very last minute when the Local's president took ill and was transported via ambulance to a hospital.

18. On that occasion, Billy Joe Walker took Ingram aside at the Local 387 hall and told him in private that if he would resign, Walker would make all of his problems disappear, but that if he refused, Walker would see to it that he would have to pay a substantial fine.

19. Further on that occasion, when Jimmy Odom, the Local 387 member who was serving as the "legal representative" for Plaintiffs, asked what it would take to resolve the problem, Billy Joe Walker responded that in the old days folks would just go outside to settle their differences; thereafter, Dryden promptly challenged Odom to step out in the parking lot with him.

20. Subsequently, Bishop and Ingram were each tried separately and convicted by Local 387 and their appeals to the Iron Workers were denied.

Ingram's Discipline

21. Ingram was tried before a jury of Local 387 members on September 5, 2002; eight of the twelve members of the jury had previously signed the August 16, 2002 petition demanding Ingram's ouster from elected union office.

22. At Ingram's trial, General Vice President Billy Joe Walker testified: "No, I don't feel like he's within his rights after he accuses people of stealing. * * * One guy of stealing and another of covering up for him. Or two others covering up for him. I'm saying that he violated his obligation by wronging a member or see one wronged but not trying to prevent the same. He wronged these four officers by accusing them of stealing."

23. The Local 387 officers also testified against Ingram: Business Manager Dryden (who functioned as the prosecutor), President Harvey (who functioned as the presiding judge), and Trustees Ashcroft and Wigart. They accused Ingram, inter alia, of violating his Oath of Obligation by "going outside the local" and communicating with former Local 387 member, Al Smith.

24. Al Smith had been expelled in 1997 by the Iron Workers General Executive Board based on his conviction by Local 387 on charges filed, inter alia, by Dean Dryden, alleging that he had "fabricated lies," and "slandered" Local officers.

25. At the conclusion of his trial on September 5, 2002, Ingram was informed by Local 387 President Harvey as follows:

This is what the sentence is: Guilty. recommended one thousand dollar fine. With a recommendation that Brother Oscar get up and apologize to Brother Dean, myself, Ed and Al and resign and his position and the fine will be taken away. That is the verdict.

26. By letters dated September 15 and 24, 2002, addressed to the Iron Workers "General Executive Board," Ingram appealed his conviction. His letters detailed numerous violations of his LMRDA Title I due process rights including, inter alia, bias by members of the trial committee. Ingram's appeal makes clear that the conduct for which he was disciplined amounted to nothing more than speech protected by Title I.

27. The Ironworkers assigned an International Representative to investigate the matter. After receiving and reviewing "[t]he report dealing with this investigation," Ironworker General Secretary Michael A. Fitzpatrick sent Ingram a letter, dated October 4, 2002, addressed to Local 387 Business Manager Dryden in which Fitzpatrick announced "the decision of this office: TO APPROVE THE FINE IN THE SUM OF ONE THOUSAND DOLLARS (\$1,000.00) AND BROTHER OSCAR INGRAM MUST PUBLICALLY APOLOGIZE TO DEAN DRYDEN, WILLIAM HARVEY, JR., EDWARD WIGART AND ALVIN ASHCRAFT AT THE NEXT REGULARLY SCHEDULED LOCAL UNION MEETING. HOWEVER, BROTHER OSCAR INGRAM WILL NOT BE REQUIRED TO RESIGN HIS POSITION AS TRUSTEE."

28. On information and belief, the International Representative assigned to conduct the investigation and submit a report was General Vice-President Billy Joe Walker.

29. By letter dated November 1, 2002, Iron Workers' General President Hunt advised Ingram that the General Executive Board had denied his appeal.

Bishop's Discipline

30. Plaintiff Bishop was tried before the Local 387 Executive Board on September 19, 2002. Business Manager Dryden served as the prosecutor and, at the outset, challenged Jimmy Odom to join him "in the pine thicket" to settle matters once and for all. Mr. Odom responded that he was sick and tired of all of Dryden's threats.

31. The trial was tape recorded by the Local Executive Board; Plaintiff Bishop's attempts to obtain a copy of the tape, or a transcript, were initially ignored and rebuffed by the Local and the International Association.

32. At the outset, Jimmy Odom asked that the charges be dismissed and his motion was granted as to all pending charges with the exception of one set, dated August 19, 2002, filed by Dan Beardon and three other members. Beardon holds a full-time salaried position in the Union, having been appointed to that position by, and subject to removal by, Business Manager Dryden.

Beardon's charges accused Bishop of "violating his oath and slandering a brother member" in violation of Article XIX, Section 4, and Article XXVI, Section 18 of the Ironworker Constitution. The Beardon charges did not allege any specific facts such as "who did what, when, where, why or how" that might have enabled Bishop to prepare a defense.

33. When Jimmy Odom asked Charging Party Beardon about the basis for his charge of slander, Beardon responded that it "would be him accusing Brother Dryden of stealing." When Odom asked what evidence supported his charge, Beardon's only response was that "it's all there in black and white," pointing to a June 18, 2002 letter to Bishop from the NLPC explaining that the LMRDA protected the right of union members to obtain financial information from their unions. The letter concluded: "Good luck to you as you take on those crooks who have been robbing the money that rightfully belongs to you and the other hardworking members of your union."

34. Business Manager Dryden called Bishop as his one and only prosecutorial witness and members of the Local Executive Board then proceeded to interrogate Bishop in an accusatorial manner leaving no doubt as to their bias and hostility.

35. For example, Board member Bobby Winkler, whose charges against Bishop were among those which were dismissed, accused Bishop of costing the union money defending against a lawsuit by the Department of Labor which required the Local "to have an election that uh every single member that was appointed by the international was put right back into office..."

36. Other Board members accused Bishop of communicating with the NLPC and with former Local 387 member, Al Smith. Board Member Albritton noted that the NLPC "is an outside entity" and Board Member Winkler opined that "these people are funded by people that really dislike unions a whole lot." When Bishop admitted, "Yes, I talk to Al [Smith]," Board member Helms said, "That is all I need to know." Later, Helms remarked that Bishop "has done nothing but try to be a pain in our sides."

37. By letter to Bishop from Dryden, dated October 4, 2002, Bishop was informed that

he had been found guilty of the charges preferred against him by Bearden, that a \$10,000 fine had been levied against him, and that he would be required to give "an apology to the members of Local 387."

38. By letter dated October 21, 2002, addressed to the Iron Workers "General Executive Board," Bishop appealed his conviction without the benefit of the trial record. His appeal detailed numerous violations of his LMRDA Title I due process rights including, inter alia, bias by members of the trial committee (Local Executive Board). Bishop's appeal makes clear that the conduct for which he was disciplined amounted to nothing more than speech protected by Title I.

39. The Ironworkers assigned an International Representative to investigate the matter. After receiving and reviewing "[t]he report dealing with this investigation," Ironworker General Secretary Michael A. Fitzpatrick wrote to Bishop on November 7, 2002, stating that "it is the decision of this office to concur in the recommendation contained therein which is "TO APPROVE THE REDUCED FINE OF \$5,000 AND MR. BISHOP MUST APOLOGIZE TO THE MEMBERS OF LOCAL 387."

40. Bishop's attempts to obtain a copy of this investigatory report were rebuffed. On information and belief, the International Representative assigned to conduct the investigation and submit a report was General Vice-President Billy Joe Walker.

41. By letter dated December 6, 2002, General Secretary Fitzpatrick advised Mr. Bishop that the General Executive Board had affirmed the decision to reduce his fine from "\$10,000 to \$5,000 along with an apology to the members of Local Union No. 387, Atlanta, Georgia. Therefore, your appeal is denied."

CAUSES OF ACTION

42. The foregoing constitutional provisions set forth in ¶¶ 13-15, supra, unlawfully infringe upon, and chill the exercise of, Plaintiffs' rights guaranteed by the Title I, "Union

Members' Bill of Rights," of the LMRDA. 29 U.S.C. § 411(a)(1), (2) and (4).

43. The presence of these provisions in the Iron Workers Constitution unlawfully chills the exercise of Title I rights of other members of the International Association who are afraid to become involved in union political affairs for fear of being brought up on disciplinary charges and possibly losing their livelihood as a consequence.

44. Accordingly, these constitutional provisions are of "no force or effect" pursuant to 29 U.S.C. § 411(b), and Plaintiff's discipline for violating these provisions is without legal basis and is accordingly null and void.

45. Plaintiffs were disciplined for exercising their rights of free speech, guaranteed by Title I of the LMRDA, in violation of 29 U.S.C. § 529.

46. By maintaining and enforcing the foregoing constitutional restraints on members' Title I rights, and by upholding the Plaintiffs' convictions and discipline, Defendant Ironworkers Union has infringed Plaintiffs' rights under 29 U.S.C. § 411(a)(1), (2) and (4), in violation of 29 U.S.C. § 529.

47. By upholding Plaintiffs' convictions after being placed on notice that Plaintiffs had been denied the due process protections afforded by 29 U.S.C. § 411(a)(5), having not been served with written specific charges, having been denied a reasonable opportunity to prepare their defense, and having been deprived of a full a fair hearing, Defendant Iron Workers violated 29 U.S.C. § 529.

48. By upholding Plaintiffs' convictions despite the fact the charges against them failed to set forth in detail the grounds for the charges, Defendant Iron Workers violated Article XXVI, Sec. 14, Par. 4 of its Constitution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully asks the Court to:

A. Declare the legally offensive language in Article XIX, Sections 4 and 10, and in

Article XXVI, Section 14, of the Iron Workers' Constitution to be null and void;

B. Declare Plaintiffs' discipline to be unlawful;

C. Enjoin the Iron Workers to remove the legally offensive language from its Constitution;

D. Enjoin the Iron Workers to inform its membership by appropriate means calculated to inform them in a meaningful manner about the Court's action and to eradicate the chilling effects of the unlawful Constitutional restraints on their LMRDA rights;

E. Enjoin the Iron Workers to monitor the Union's disciplinary process to ensure that charges are not brought against members, that members do not have to stand trial, and that members are not convicted and disciplined, for alleged violations of the legally offensive Constitutional provisions, or for exercising their Title I right of free speech;

F. Award such additional relief as the Court may deem just and proper, including Plaintiffs' reasonable attorney fees, costs, and expenses.

Respectfully submitted,

/s/
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