

El Paso Times

Man fights suspension for shunning union

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An El Paso security guard removed from his job because he refused to join a union or pay union fees is claiming the action is illegal and has succeeded in getting the National Labor Relations Board to file a complaint against the union and his employer. A hearing on the case has been tentatively set for March.

Juan Vielma, 58, has not been working since late June when his employer, a joint venture of Minnesota-based Deco Security Services and New Mexico-based Akal Security, suspended him without pay for not joining a union or paying union fees as stipulated in a union contract with the joint venture.

"For me, I don't think we need a union," said Vielma, who said he has been a security guard for about 17 years, including more than 10 years at an Immigration and Customs Enforcement center at 8915 Montana.

Union membership had never been an issue, Vielma said.

But in late 2005, the International Union Security, Police and Fire Professionals of America sent him a letter advising him he had to pay union dues or face discharge from his job, according to the labor board complaint.

"I can't collect unemployment (because) I'm suspended until I pay the union fees," Vielma said.

He's now being treated for depression, which, he said, has made it difficult to look for another job. "I've got all my bills. I'm two payments behind on my house (mortgage)."

Texas is a "right-to-work state" with laws prohibiting an employer or union from forcing a person to join a union or pay money to a union, said Patrick Semmens, a spokes man for the National Right to Work Legal Defense Foundation in Virginia, which is handling Vielma's case.

It's against federal law to enforce a "compulsory dues clause (in a contract) since that part is illegal" under Texas law, Semmens said.

The union, in an answer filed Wednesday to the complaint, denied the alleged unfair labor practices. It also said it had asked for Vielma to be removed from the federal work site by his employer, "not that it discharge Vielma."

The union asked that the complaint be dismissed because some of the alleged violations were too old to fall within a six-month statute of limitations, and because Vielma's work site has "exclusive federal law jurisdiction."

That means state law wouldn't apply in this case, said Mark Heinen, a Detroit lawyer representing the union.

Semmens at the foundation said the only time state law doesn't apply is if the federal facility is designated as a "federal enclave" with exclusive federal jurisdiction, which, he said, is not the case here. The security companies also are arguing that Vielma isn't protected by Texas law because he worked on federal property, Semmens said.

An official for Akal Security said the company couldn't comment on the case while it's pending before the labor board. No one at Deco's headquarters in Baxter, Minn., or at the Security, Police and Fire Professionals union headquarters in Roseville, Mich., could be reached for comment.

Victor Aguirre, El Paso business agent for the International Union of Operating Engineers Local 351, which is not involved in the case, but represents workers at Fort Bliss and other federal facilities, said unions count on dues to cover expenses for representing workers covered under collective bargaining agreements.

"The law forces a union to represent everyone under a collective bargaining agreement, so why, if (a person) is getting a benefit, shouldn't they pay for it?" Aguirre asked.

However, a federal facility must be recognized as a federal enclave to be exempt from state laws, Aguirre said. For example, Fort Bliss is classified as a federal enclave and labor agreements at Fort Bliss can contain clauses requiring workers to pay union dues, he said.

Aguirre's union tangled with the National Right to Work Foundation several years ago because a Fort Bliss worker covered by a union contract objected to paying dues, Aguirre said. That case was settled when the union agreed to keep track of what dues are used for worker representation and what dues are used for political causes and other purposes, he said.

A worker who objects to paying dues is then refunded dues not used for representation expenses, Aguirre said. The separation of dues resulted from some Supreme Court cases, he said.

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For more information: National Labor Relations Board, www.nlr.gov; National Right to Work Legal Defense Foundation, www.nrtw.org; Security, Police and Fire Professionals of America, www.spfpa.org.

Other action

The Right to Work Foundation in November sent a letter to Texas Attorney General Greg Abbot, asking his office to investigate Juan Vielma's case and prosecute those found to be violating state law.

The attorney general's office plans to do "a cursory review of the law to see if the letter sent to us accurately describes the (attorney general's) enforcement authority," reported Tom Kelley, an attorney general spokesman.

Photo Caption:

Juan Vielma, who has worked as a security guard for about 17 years, sits in his Lower Valley home with a copy of the termination request sent from the International Union, Security, Police and Fire Professionals of America to his employer for refusing to join the union or to pay union dues. "I work to get paid; I don't pay to work," Vielma said.

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