

An Agricultural Labor Relations Board (ALRB) decision to bar a Gerawan Farming worker from union bargaining proceedings has been deemed unconstitutional by the California Court of Appeal.

In a unanimous decision, the Fifth District Court of Appeal yesterday struck down as unconstitutional a 2002 law that stripped workers of their right to seek invalidation of unlawful ALRB decisions in Superior Court.

This case arose after a Gerawan farmworker Lupe Garcia filed a lawsuit claiming the First Amendment was violated when the ALRB refused to allow him to silently observe the ALRB's "on the record" proceedings concerning the terms of a contract to be imposed on him and all other Gerawan farm employees.

The United Farm Workers (UFW) union has been able to bargain on Gerawan employees' behalf thanks to a decision made by the group in 2012 to impose mandatory mediation and conciliation (MMC).

A large portion of Gerawan Farming workers, who have also garnered support from the Center for Worker Freedom, have previously sought to invalidate their union membership through an election but were unsuccessful in persuading the ALRB to count their votes.

In the decision yesterday, the court held the California Constitution barred the California Legislature from stripping workers of the right to bring claims in Superior Court. In reversing the dismissal of Garcia's lawsuit, the Court of Appeal directed the Superior Court to hear the employee's case.

In that case, Garcia argued the UFW's longstanding abandonment of Gerawan's workers forfeited its status to represent him in this compelled contracting process.

The open hearing position advanced by Garcia and Gerawan was supported in the Court of Appeal by The Reporters Committee for Freedom of the Press, The First Amendment Coalition, and The California Newspaper Publishers' Association. These groups were represented by nationally recognized First Amendment expert UCLA Law Professor Eugene Volokh.

"While we are happy to return to the Superior Court and win again there, we wonder why the ALRB persists in its blatantly unconstitutional policy of barring workers from proceedings where their working conditions and wages are being addressed," said Gerawan

co-owner Dan Gerawan, whose company filed the same action as Garcia and claimed relief.

"We call on the ALRB to rethink its position and agree to open proceedings even if the UFW wants them closed.

"The ALRB must protect workers first and foremost. The secret hearing policy is obviously unconstitutional and the ALRB should stop wasting taxpayer dollars defending it."

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