



January 5, 2012

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your September 7, 2011 complaint filed with the U.S. Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), occurred in connection with the election of officers of the American Postal Workers Union (APWU) Local 89, conducted on June 10, 2011.

The Department conducted an investigation of your allegation. As a result of the investigation, the Department has concluded, with respect to your allegation, that there was no violation of the LMRDA.

You alleged that Local 89 violated section 401(e) of the LMRDA by improperly declaring you ineligible to hold the office of local president. Section 401(e) requires that every member in good standing shall be eligible to be a candidate and to hold office, subject to section 504 and to reasonable qualifications uniformly imposed.

The investigation revealed that you were disqualified from running for office pursuant to section 504(a) of the Act. Section 504(a) states, in pertinent part, that, "No person ...who has been convicted of, or served any part of a prison term resulting from his conviction of, robbery,...assault which inflicts grievous bodily injury...shall serve or be permitted to serve...as an officer... during or for the period of thirteen years after such conviction or after the end of such imprisonment, whichever is later...."

Investigation revealed that on April 8, 1998, you were convicted of an Aggravated Assault felony of the first degree in the Court of Common Pleas in Philadelphia, Pennsylvania. The conviction resulted from a criminal complaint alleging that on August 15, 1997, you twice struck an individual with your automobile, causing internal injuries and head, neck, and spinal trauma, necessitating medical treatment. Felony

Complaint in [REDACTED]
(First Jud. Dist. Phila. County) (filed August 16, 1997).

On May 20, 1998 you were sentenced to a period of incarceration of 11.5 months to 23.5 months in a county correctional facility to be served on weekends with parole after thirteen weekends to house arrest. Your sentence was subsequently modified to permit service of jail-type confinement “every other weekend to accommodate [your child] custody schedule.” Appellate Summary of Court Docket in [REDACTED] [REDACTED] (entry for Sep. 25, 1998). The investigation revealed that you served 13 weekend sentences in full custody of, and housed by, the Philadelphia Prison System between October 9, 1998 and April 23, 1999.

According to the U.S. Department of Justice, the agency responsible for determining whether an individual is disqualified under section 504(a) of the LMRDA, the first degree Aggravated Assault conviction made you ineligible under section 504 of the LMRDA to serve as an officer in the union for 13 years after the end of imprisonment served for that conviction. A first degree Aggravated Assault felony under Pennsylvania law is legally equivalent to the disqualifying crimes of “an assault which inflicts grievous bodily injury” or “an attempt to commit” such an assault under Section 504. Your incarceration in the Philadelphia Prison System – even with intermittent, supervised release – was also “imprisonment” within the meaning of Section 504. Therefore, you are ineligible to serve for union office until April 25, 2012, or 13 years from the date your imprisonment ended.

The Department of Labor investigation revealed that the APWU Local 89 Judge of Elections and the APWU National Election Appeals Committee properly considered section 504(a) of the LMRDA in removing you from office and ordering a re-run election for local president. Therefore, you were properly held ineligible for office, and no violation of the LMRDA occurred.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred. Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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