

**Report of the
Appeals Committee
to the
76th Convention**

CWA

**Communications Workers of America
August 7-8, 2017
Pittsburgh, Pennsylvania**

INTRODUCTION

The Appeals Committee convened August 3 through August 6, 2017, at the Omni William Penn Hotel in Pittsburgh, Pennsylvania, for the purpose of receiving and disposing of appeals in accordance with the CWA Constitution and the Internal Appeals Procedures of the Union, as established by prior Conventions and the Executive Board.

The committee was available to meet with interested parties on August 5 through August 6, 2017, between the hours of 2:00 pm through 6:00 pm. Outside of these hours, the committee was available by appointment.

I would like to thank the committee members – Cori Gambini, President, CWA Local 1168, Chair; Johnny Hernandez, President, CWA Local 3112; Sarah Harreus, President, CWA Local 6450; Orange Richardson, President, CWA Local 9410; and Donald Alire, President, CWA Local 7076, for their hard work and the time they devoted to these appeals. Also, the committee thanks John Dempsey, Staff Representative, CWA District 1, for his support and assistance.

APPEAL 1

Douglas Grant has appealed the decision of the CWA Executive Board upholding the determination of a Local 1101 Trial Court. The local trial court had found Mr. Grant guilty of certain charges filed against him by Local 1101 member and chief steward Bill Nebeling. The appeal is timely and properly before this Convention.

Mr. Nebeling's charges accused Mr. Grant of aggressive, bullying, demeaning, and threatening behavior in violation of the CWA Constitution and the CWA Policy on Mutual Respect. The local trial court found Mr. Grant guilty of those charges, suspended him from membership for a period of two years, and fined him the sum of \$1,000. Mr. Grant appealed that decision to the Local Executive Board. The Local Executive Board partially granted his appeal, dismissing one of the charges against Mr. Grant, but upheld the local trial court's verdict that Mr. Grant had violated the CWA Policy on Mutual Respect. Mr. Grant then appealed to the CWA Executive Board which upheld the local trial court's decision, but vacated the \$1,000 fine.

Mr. Grant's appeal to this Convention raises the same issues that were addressed by the CWA Executive Board. The issues Mr. Grant raises include the following:

1. The bailiff and court reporter interjected themselves into the proceedings and were leading the witnesses;
2. The prosecutor entered hearsay evidence in the form of witness statements into the trial;

3. Refusal to allow cross-examination or entry of a videotape of an interview with Kevin Condy and Keith Purce;
4. The trial judge allowed the prosecutor to coach witnesses and spoke to them while on the witness stand;
5. Collusion between the Local Executive Board and the accuser;
6. Failure of the prosecutor to provide witness statements prior to the trial and failure of the prosecutor to make the Local Executive Board available to testify;
7. The trial judge was biased and unfairly prevented Mr. Grant from presenting a proper defense and stated this is not a court of law;
8. The prosecutor failed to provide proper sequestration of witnesses in that he allowed "witnesses to confer with each other after giving testimony;"
9. Bailiff Pete Torres sat with the jury during its deliberations; and
10. Witness statements were written before the charges were filed.

The CWA Executive Board addressed each of these procedural arguments in detail. The CWA Executive Board ultimately concluded that none of Mr. Grant's procedural arguments had merit. Based on prior CWA Executive Board decisions, the CWA Executive Board declined to disturb or second-guess the decision of the trial court on questions of credibility. As the CWA Executive Board has previously held:

As a threshold issue, however, we note that many of the Trial Court's decisions in this case come down to issues of credibility – who is to be believed. Absent extraordinary evidence to the contrary, we will not disturb such determinations. The Trial Court was present at the hearing and could view the demeanor of witnesses as they testified. Their determinations on credibility issues are entitled to great deference. As an appellate body, it is not our place to substitute our own determinations for that of the Trial Court and we decline in this case to do so. (Appeal of Andrea Montoya, CWA Executive Board Minutes, May 1996.)

The CWA Executive Board has also previously ruled:

It is the Trial Court which is charged with conducting the trial, judging the credibility of witnesses and, ultimately, determining the guilt of the accused. Absent some procedural irregularity sufficiently egregious to conclude that due process was violated, the CWA Executive Board will not "second-guess" the decision of the Trial Court. (Appeal of Sean McKenna, CWA Executive Board Minutes, January 2002.)

The CWA Executive Board also found that the fundamental standards of due process had been met and that the evidence presented at the trial was sufficient to find Mr. Grant guilty of "aggressive, hostile, threatening, and demeaning behavior."

The Appeals Committee, after a thorough review of this matter, and meeting with Mr. Grant and Local 1101 President Keith Purce, agrees with the CWA Executive Board that the behavior at issue here has no place in our union and does violate the CWA Policy on Mutual Respect. Accordingly, the Appeals Committee recommends that the decision of the CWA Executive Board be upheld and the appeal of Douglas Grant be denied.

APPEAL 2

Juan Ramirez, a member of Local 39000, has appealed the CWA Executive Board's decision regarding the temporary administration of Local 39000. The CWA Executive Board originally placed Local 39000 into temporary administration on December 2, 2016, due to a delinquency in the payment of per capita dues to the National Union. The TNG-CWA Constitution allows for a TNG-CWA local to be placed into temporary administration if it is more than three months delinquent in the payment of per capita dues. This appeal is timely and properly before this Convention.

Certain of the local's former officers objected to the imposition of a temporary administration. President Shelton appointed District 7 Vice President Brenda Roberts to conduct a hearing. Vice President Roberts did conduct a hearing and issued a report and recommendation to the CWA Executive Board, recommending that the CWA Executive Board affirm the imposition of the temporary administration. The CWA Executive Board acted to affirm the imposition of the temporary administration on June 13, 2017. There is no reason to disturb that decision.

The file in this case clearly shows that the local was, in fact, seriously delinquent in the payment of per capita dues in the amount of approximately \$22,000. The file shows that this was in violation of the TNG-CWA Constitution. The TNG-CWA leadership, on several occasions, attempted to work with the local to address the delinquency, all without success.

After a thorough review of this case, and meeting with Mr. Ramirez, Vice President Roberts, and TNG-CWA Administrative Director Tim Schick, the Appeals Committee recommends that the decision of the CWA Executive Board be upheld and the appeal of Juan Ramirez be denied.

