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Bush NLRB Rulings Have Eroded Workers Rights, Witnesses Tell Joint Senate-House Subcommittee

WASHINGTON, D.C. – The Bush National Labor Relations Board has waged an unprecedented war against long-established workers’ rights, witnesses told the House Subcommittee on Health, Employment, Labor and Pensions, and the Senate Employment and Workplace Safety Subcommittee today.

Sen. Edward Kennedy (D-MA), chairman of the Senate Health, Education, Labor and Pensions Committee, said, “The National Labor Relations Board is supposed to protect the voice of American workers, but the Board is no longer fulfilling that responsibility. Instead of enacting policies that encourage collective bargaining, it seems hostile to the very idea of such bargaining. Each time the Board uses its power to undercut the protections of the law, the nation’s workers pay the price. We should all – Democrat and Republican – be concerned about the state of collective bargaining in our country. History teaches us that the nation’s unions and the middle class rise and fall together. They’ve been placed apart in recent years, and we need to bring them back together.”

“A majority of these decisions are viewed as many as a major shift in labor policy and an assault on the American worker and his or her right to collectively bargain,” said Rep. Rob Andrews (D-NJ), chairman of the House subcommittee. “When workers get their fair share, the economy benefits and the middle class grows stronger. The freedom to organize and collectively bargain has been under severe assault in recent decades and it is our role to determine whether the Board’s recent decisions are contributing to the problem.”

“This President has stacked the deck against workers on the National Labor Relations Board,” said Sen. Patty Murray (D-WA). “As chair of the Senate Employment and Workplace Safety Subcommittee, protecting workers’ rights is a critical priority for me. And it should be a priority for those government agencies charged with promoting the well-being of workers and their families. Unfortunately, it seems that many Administration appointees have decided that following the intent of the law isn’t important.”

Witnesses said that the NLRB’s Republican majority has overturned long-settled precedent and established new rules that make it even more difficult for workers to join unions and bargain for better employment terms and less costly for employers to break the law and fire workers who want a union.

“Since its installation in 2002, the Bush administration’s Labor Board has embarked on a systematic and insidious effort to radically overhaul our federal labor law and its regulation of labor relations in the private sector,” said Jonathan P. Hiatt, general counsel of the AFL-CIO. “Its decisions are not merely a pendulum swing or a course correction at

times characteristic of changes in political administrations. Rather, they evince a calculated effort to make fundamental changes to our nation's labor law.”

The NLRB issued 61 published decisions in September alone, including one on how much back pay workers can receive if they are unjustly fired. In 1996, Feliza Ryland, a housekeeper at the Grosvenor Resorts in Orlando, and other workers were fired after going on strike when contract negotiations stalled. In 2001, the NLRB agreed that the workers were illegally fired and were entitled to back pay.

The NLRB ruled that Ryland and other workers were not entitled to full back pay because the striking workers did not leave the picket line soon enough. The NLRB said that the workers forfeited the right to full back pay because they picketed for several weeks in an attempt to get their jobs back – jobs from which they had been unlawfully terminated – rather than looking for a new job. Giving full back pay would “promote idleness,” the majority said.

“It has now been more than 11 years since I was unlawfully fired, and I am still waiting to see the back pay, still waiting to see justice,” said Ryland. “Workers who are fired for trying to organize and bargain for a better life have been mistreated for exercising their rights. It should not take so long to get justice.”

“In reading Grosvenor Resort, one almost wonders who the wrongdoer really was: the employer or the employees,” said NLRB Board Member Wilma Liebman, who disagreed with the majority opinion in Ryland's case. “What reasonable employee will risk exercising her labor law rights, if she is uncertain about her chances at the Board, but can count on a long delay before a violation might be found, more delay before a remedy is awarded, and a meager remedy in the end?”

Matthew W. Finkin, a labor policy researcher at the University of Illinois School of Law, said that the NLRB under the Bush Administration has been moving in a radical new direction rather than following established labor law.

“The current NLRB has charted a historically unprecedented course,” said Finkin. “I do not believe that any disinterested reader of the contemporary Board's record could characterize the pattern of the Board decisions as the product of impartiality or could conceive of the Board as a neutral arbiter.”

“Workers' rights have been under near-constant assault in the years since the start of the Bush administration,” said Rep. George Miller (D-CA), chairman of the House Education and Labor Committee. “The rights of workers to join together and bargain collectively for a better deal are fundamental human rights. These rights are enshrined in the National Labor Relations Act, the purpose of which is clear: to protect workers' full freedom of association and encourage collective bargaining.”

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