

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 04-1326

September Term, 2005

FILED ON: OCTOBER 27, 2005 [927723]

ATLANTIC VEAL & LAMB, INC.,
PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD,
RESPONDENT

Consolidated with 04-1365

On Petition for Review and Cross-Application for Enforcement
of an Order of the
National Labor Relations Board

Before: HENDERSON, GARLAND, and GRIFFITH, *Circuit Judges*.

J U D G M E N T

This petition for review and cross-application for enforcement of an order of the National Labor Relations Board (NLRB) was presented to the court, and briefed and argued by counsel. The court has accorded the issues full consideration and has determined that they do not warrant a published opinion. *See* D.C. Cir. Rule 36(b). It is

ORDERED and **ADJUDGED** that the petition for review be denied, and that the cross-application for enforcement be granted.

The NLRB found that petitioner Atlantic Veal & Lamb violated Section 8(a)(1) of the National Labor Relations Act, 29 U.S.C. § 158(a)(1), by threatening employees with discharge and plant closure if they signed union cards and by interrogating employees about their union activities. The Board also found that Atlantic Veal violated

Section 8(a)(3) and (1) of the Act, 29 U.S.C. § 158(a)(3) & (1), by discharging one employee and suspending another in retaliation for their actual or suspected union activity. The Board's findings are supported by the testimony of multiple witnesses, as well as by other direct and circumstantial evidence. Although Atlantic Veal contends that the Administrative Law Judge (ALJ) insufficiently articulated the basis for his resolution of credibility issues, we will not "reverse the Board's adoption of an ALJ's credibility determinations unless . . . those determinations are 'hopelessly incredible,' 'self-contradictory,' or 'patently unsupportable.'" *Cadbury Beverages, Inc. v. NLRB*, 160 F.3d 24, 28 (D.C. Cir. 1998) (quoting *Capital Cleaning Contractors, Inc. v. NLRB*, 147 F.3d 999, 1004 (D.C. Cir. 1998)). Atlantic Veal proffers neither evidence nor argument that any of the testimony credited by the ALJ was "hopelessly incredible," "self-contradictory," or "patently unsupportable." Accordingly, because the Board's findings are "supported by substantial evidence on the record considered as a whole," they are "conclusive" upon this court. 29 U.S.C. § 160(e).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing or petition for rehearing en banc. *See* Fed R. App. P. 41(b); D.C. Cir. Rule 41(a)(1).

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY:

Michael C. McGrail
Deputy Clerk