

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 06-1352

September Term, 2007

FILED ON: NOVEMBER 21, 2007

[1081629]

WELDON, WILLIAMS & LICK, INC.,
PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD,
RESPONDENT

GRAPHIC COMMUNICATIONS CONFERENCE OF THE INTERNATIONAL BROTHERHOOD OF
TEAMSTERS,
INTERVENOR

Consolidated with 06-1385

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

BEFORE: HENDERSON, GARLAND and BROWN, *Circuit Judges.*

J U D G M E N T

The petition for review and cross-application for enforcement of an order of the National Labor Relations Board was considered on the briefs and oral arguments of counsel. It is

ORDERED that the petition for review be denied and that the cross-application for enforcement be granted. We affirm the Board's finding that Weldon, Williams & Lick, Inc. violated sections 8(a)(1) and (a)(3) of the National Labor Relations Act, 29 U.S.C. § 158(a)(1), (3), by discharging Dale Morfey for engaging in protected activities. *See Wright Line*, 251 N.L.R.B. 1083, 1088-90 (1980). In applying the two-part *Wright Line* test, the Board had substantial evidence to support its findings that (1) the General Counsel satisfied his burden of showing anti-union animus was a substantial or motivating factor for firing Morfey; and (2) Weldon failed to satisfy its burden of demonstrating it would still have fired Morfey if he had not engaged in protected activities. *Id.* Specifically, the credibility findings about when James

Walcott decided to fire Morfey were “neither hopelessly incredible nor self-contradictory.” *Conair Corp. v. NLRB*, 721 F.2d 1355, 1368 (D.C. Cir. 1983) (internal quotation marks omitted). Moreover, Weldon failed to show that its firing of Morfey conformed with its ordinary treatment of similarly situated employees.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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 hearing en banc. *See* FED. R. APP. P. 41(b); D.C. CIR. RULE 41.

PER CURIAM

FOR THE COURT:
Mark J. Langer, Clerk

BY:

Deputy Clerk