



Pennsylvania Conference of Teamsters

Strength in Numbers 95,000

William Hamilton, President & Eastern PA Legislative Coordinator – Joseph Molinero, Sec.-Treasurer & Western PA Legislative Coordinator – Tim O'Neill, Consultant – Dan Grace, Trustee & Legislative Advisor – Robert Baptiste, Esq. Legal Advisor

LEGISLATIVE ACTION ALERT

The Case of The Frozen Truck Driver and the Supreme Court Nominee

Alphonse Maddin was an over-the-road Detroit truck driver working for TransAm Trucking. He was fired for abandoning a meat-packed trailer with frozen brakes on a bleak sub-zero-temperature Illinois highway in 2009. Maddin conducted a seven-year legal battle against his employer, winning his case before the 10th circuit with only one judge in dissent. That judge was Judge Neil Gorsuch nominated to fill Antonin Scalia's seat on the US Supreme.

As Teamsters and hard working men and women, we must question Gorsuch's judgement on this case since safety was a major factor in this case. Is this the type of judge you want making decisions on many aspects of our daily lives?

In an article from CNN© here is how the judges who ruled in favor of Maddin describe the facts of the case:

View CNN entire article at: <http://www.ibtimes.com/what-happens-next-unions-how-supreme-court-nominee-neil-gorsuch-could-change-labor-2485183>

"Alphonse Maddin was employed as a truck driver by ... TransAm Trucking. ... In January 2009, Maddin was transporting cargo through Illinois when the brakes on his trailer froze because of subzero temperatures. After reporting the problem to TransAm and waiting several hours for a repair truck to arrive, Maddin unhitched his truck from the trailer and drove away, leaving the trailer unattended. He was terminated for abandoning the trailer."

Facts of the Case

At 11:17 p.m., Maddin called his emergency into a dispatcher who promised that help would be summoned. Two hours later at 1:18 a.m., Maddin was still waiting for help, but by now his torso and feet were feeling numb from the cold. It seems the heat in the truck wasn't working properly.

The driver called in again, but this time a dispatcher warned him not to leave the freezing truck. He called the dispatcher again, saying he couldn't feel his feet and was having trouble breathing. Finally, Maddin unhooked the truck, pulled it 3 feet in front of the trailer and proceeded to call the dispatcher yet again. He was instructed either to drag the trailer with the frozen brakes with him -- probably an impossible task -- or continue to wait in the freezing cab until help arrived. Maddin ignored the order and drove away with what little gas he had left. For this act of insubordination, he was fired. It was noted in the confirmation hearings the temperature that evening was 14 degrees below zero.

Under the rules of the US Department of Labor, a truck driver can't be fired for refusing to "operate" his vehicle because of "safety concerns." But in his dissent, Gorsuch didn't buy the argument that a refusal to "operate" the vehicle was even involved. In fact, he "operated" his truck, driving it to a gas station against company orders that he should have remained with the trailer.

Gorsuch wrote, "A trucker was stranded on the side of the road, late at night, in cold weather, and his trailer brakes were stuck. He called his company for help and someone there gave him two options. He could drag the trailer carrying the company's goods to its destination (an illegal and maybe sarcastically offered option). Or he could sit and wait for help to arrive (a legal if unpleasant option). The trucker chose None of the Above, deciding instead to unhook the trailer and drive his truck to a gas station. In response, his employer, TransAm, fired him for disobeying orders and abandoning its trailer and goods. CNN concluded "Even Scalia probably would have let the truck driver thaw out at the gas station."



Pennsylvania Conference of Teamsters

Strength in Numbers 95,000

William Hamilton, President & Eastern PA Legislative Coordinator – Joseph Molinero, Sec.-Treasurer & Western PA Legislative Coordinator – Tim O'Neill, Consultant – Dan Grace, Trustee & Legislative Advisor – Robert Baptiste, Esq. Legal Advisor

Gorsuch apparently never drove a tractor-trailer or been stranded in sub-zero weather on a desolate highway. How

he decided that the discharge was proper is beyond one's wildest imagination.

Listed in an article from International Business Time © are four cases that Gorsuch ruled on.

Link to article at: <http://www.ibtimes.com/what-happens-next-unions-how-supreme-court-nominee-neil-gorsuch-could-change-labor-2485183>

Laborers' International of North America, Local 758 v. NLRB (2010)

The issue at the center of this case: A union in Colorado Springs swayed an employer to fire an employee because that employee didn't pay union dues. The NLRB, however, decided the union wasn't playing fair. The union petitioned

the court for review of the NLRB's verdict, and the NLRB shot back, cross-petitioning for the enforcement of their decision. When the case came to Gorsuch, he sided with the NLRB.

Public Service Company of New Mexico v. NLRB (2012)

The NLRB decided the Public Service Company of New Mexico, an energy holding company, violated fair work practices because it refused to provide information about a termination grievance. In other words, the company wouldn't

turn over disciplinary information about why an employee was fired. The company was not happy about this decision, so it went to court. Gorsuch once again took the side of the NLRB.

Teamsters Local Union No. 455 v. NLRB. (2014)

When a local Teamsters union chapter wanted to declare an employer's lockout of employees unlawful, the NLRB said the equivalent of "nope." The union protested, and asked to

take a second look at the NLRB decision. Gorsuch sided with the NLRB over the union — the employer's lockout was legal, he decided.

NLRB v. Community Health Services (2016)

In this case, a hospital was found to have cut the hours of some of its employees in a manner that was unlawful. The NLRB ordered the hospital to give those employees back pay, and when the hospital refused, the NLRB took the case

to court. Although the majority opinion sided with the NLRB, this time, Gorsuch dissented. He claimed that the NLRB went beyond the "boundaries of [its] Congressional charter."

International Business Time © concluded with- "What does all of this mean? So far, Gorsuch has tended to stand on the anti-union side of the fence. But with only four decisions, it's difficult to draw broad generalizations."

This Supreme Court Appointment could change the face of Labor forever and send us back to the stone age. This court may readdress the case [Friedrichs v. California Teachers Association](#), No. 14-915.

These Legislative Action Alerts will be posted on the PA Conference of Teamsters web site at www.pacfteamsters.com

