

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 15-1443

September Term, 2017

FILED ON: NOVEMBER 6, 2017

INTERNATIONAL LONGSHORE & WAREHOUSE UNION AND INTERNATIONAL LONGSHORE &
WAREHOUSE UNION, LOCAL 8,
PETITIONERS

v.

NATIONAL LABOR RELATIONS BOARD,
RESPONDENT

ICTSI OREGON, INC.,
INTERVENOR

Consolidated with 16-1036

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

Before: GRIFFITH and KAVANAUGH, *Circuit Judges*, and SENTELLE, *Senior Circuit Judge*.

J U D G M E N T

These cases were considered on the record from the National Labor Relations Board and the briefs and arguments of the parties. The Court has accorded the issues full consideration and has determined that they do not warrant a published opinion. *See* D.C. Cir. R. 36(d). It is

ORDERED AND ADJUDGED that the petition for review be denied and the cross-application for enforcement be granted for the reasons stated below.

The International Longshore & Warehouse Labor Union et al. (“ILWU”) petition for review of the National Labor Relations Board’s (“NLRB,” or the “Board”) decisions (1) affirming the Administrative Law Judge’s (“ALJ”) determination that ILWU lacked a lawful work preservation objective, (2) denying ILWU’s motion to consolidate this case with the first

case on this issue, (3) affirming the ALJ's finding that ILWU induced or encouraged a deliberate work slowdown from September 2012 to June 2013 with the object of pressuring ICTSI and the Carriers to assign dockside reefer work to ILWU-represented longshoremen, and (4) denying ILWU's motion to reopen the record. The NLRB cross-applies for enforcement of its decision and order.

Our review of unfair labor practice determinations by the Board is "quite narrow." *Traction Wholesale Ctr. Co. v. NLRB*, 216 F.3d 92, 99 (D.C. Cir. 2000). We set aside orders of the NLRB only if the Board lacks a reasonable basis in law, fails to apply the proper legal standard, departs from precedent without reasoned justification, or its factual determinations lack substantial evidence. *See Titanium Metals Corp. v. NLRB*, 392 F.3d 439, 445-46 (D.C. Cir. 2004); *see also Sutter E. Bay Hosps. v. NLRB*, 687 F.3d 424, 437 (D.C. Cir. 2012). Under this standard, the Board's findings are "conclusive" if supported by substantial evidence on the record as a whole. 29 U.S.C. § 160(e); *Universal Camera Corp. v. NLRB*, 340 U.S. 474, 488 (1951). Most of petitioners' arguments for review seek to have us redetermine factual questions and the conclusive determination made by the Board. Upon review of the record and the arguments of counsel, we conclude that the Board's decisions survive the standard of review. Furthermore, the Board's conclusions of law are all reasonable and must be upheld. *See Chevron, U.S.A. Inc. v. NRDC*, 467 U.S. 837, 843-44 (1984). For these reasons, ILWU's petition is denied and the Board's cross-application for enforcement is granted.

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 resolution of any timely petition for rehearing or petition for rehearing en banc. *See* Fed. R. App. P. 41(b); D.C. Cir. R. 41.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Ken Meadows

Deputy Clerk