

No. 20-1331

SUPREME COURT OF THE UNITED STATES

Arthur J. Clemens Jr.,

Petitioner

Vs.

Tom Balanoff

Laura Garza

Nancy Cross

Local One, Service Employees International Union

Respondents

Petition for Rehearing of
Denial of Petition for Writ of Certiorari to
the United States Court of Appeals
for the Eighth Circuit

SUPREME COURT RULE 44
PETITION FOR REHEARING OF DENIAL OF
PETITION FOR WRIT OF CERTIORARI

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COMES NOW THE PETITIONER AND IN SUPPORT OF HIS RULE 44 PETITION FOR REHEARING, STATES AND ALLEGES AS FOLLOWS:

1. Petitioner paid a \$300 filing fee with the Clerk of the Court to have his petition **in its entirety** reviewed and ruled on by the Supreme Court after the **Petition in its entirety** was posted on the Supreme Court website for possible review by any and all members of the public who would be interested in this case, which might include the press, labor organizations, civil rights organizations, and members of Congress, including members of Committees who have an interest in investigating Labor Union practices and proposing legislation or repeal of legislation related to the subject matter of this case.

2. The Clerk did not post the Petitioner's pleadings in their entirety on the internet, and approximately one page of text was omitted. The missing text is partly from one page and partly from the next page of the Petitioner's original paper submission. Additionally, Appendices G and H have not been posted on the internet, and instead a notice is posted, stating "Additional material from this filing is available in the Clerk's office." even though the Clerk's office was closed to the public due to the pandemic at the time this notice was posted.

3. The missing text, which would have been labeled as page 3 if it was included is as follows in bold type:

temporary injunctions to stop the destruction of records older than five years starting in 2015, and to stop a membership meeting vote to create the office of Executive Vice President pending a ruling in this case, and on August 24, 2020 affirmed the ruling of the Trial Court after three working days of consideration. Petition for rehearing and hearing en banc was denied on October 20, 2020, without the signature of any Judges.

Further details of the case are contained in Statements in Support of Questions.

A. STATEMENT IN SUPPORT OF QUESTION 1.

Local One, Service Employees International Union has 50,000 rank and file members spread out over 6 states, with its headquarters in Chicago. (See 2019 OLMS LM-2 Report#) It is not possible under the Local One Constitution and Bylaws or the rules of the Department of Labor, Office of Labor and Management Standards (Appendix D), for a rank and file member from St. Louis, Missouri running for Local-wide office to have any chance to be elected to Local-wide office because the Local with the support of the Department of Labor, OLMS, acting under the color of the authority of 29 USC 481(c), will not provide a rank and file member attempting to qualify to be on the ballot to run for Local office with a list of the names, addresses, email addresses, and phone numbers of the rank and file membership. 29 USC 481(c) was passed in 1959, long before the introduction of the internet. Members of Congress voting to pass said clause were

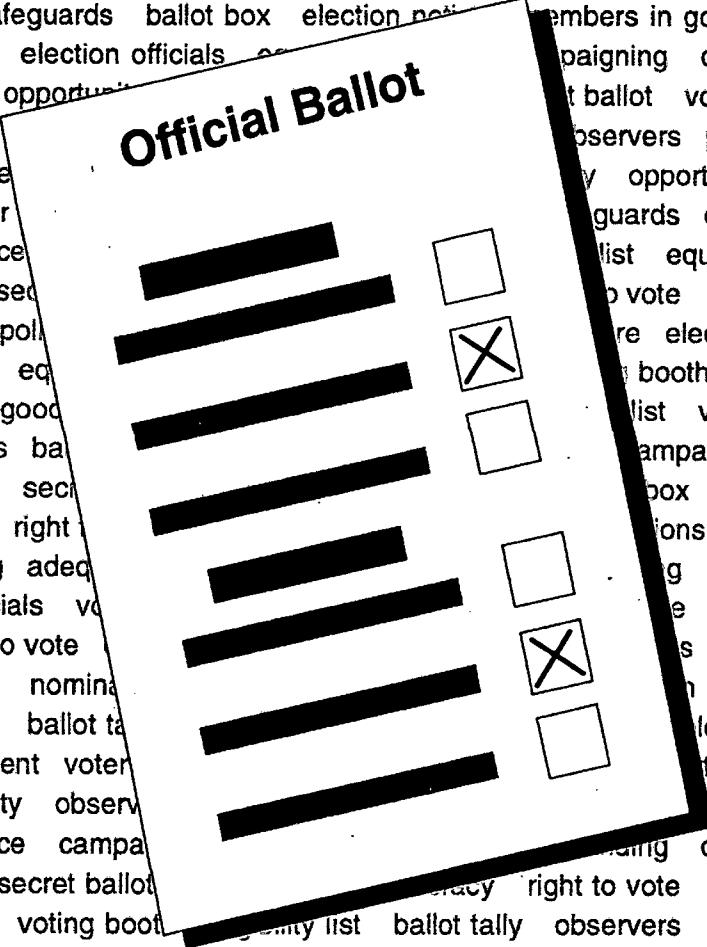
4. Missing page one of APPENDIX G Department of Labor, OLMS Publication "Conducting Local Union Officer Elections" Chapter 7, REQUIREMENTS, para 3 is as follows:

Conducting Local Union Officer Elections

A Guide for Election Officials



secret ballot candidates democracy right to vote nominations observers
polling place voter eligibility campaign literature constitution voting booth
adequate safeguards ballot box election notice members in good standing
eligibility list election officials campaigning qualifications
ballot tally opportunity to vote ballot voter eligibility
candidates observers polling place
campaign literature opportunity to vote
voter register adequate safeguards campaigning
election notice eligibility list equal treatment
ballot box secret ballot to vote nominations
observers polling place election officials
constitution equal treatment booth ballot box
members in good standing list voter register
qualifications ballot box campaign literature
voting booth secret ballot box constitution
democracy right to vote ons ballot tally
campaigning adequate eliging eligibility list
election officials voters e secret ballot
opportunity to vote s democracy
right to vote nominations candidates
nominations ballot tally election notice
equal treatment voter opportunity to vote
voter eligibility observers polling place
election notice campaigning qualifications
ballot box secret ballot democracy right to vote nominations
constitution voting booth eligibility list ballot tally observers right to vote
secret ballot candidates democracy right to vote nominations observers
polling place voter eligibility campaign literature constitution voting booth
members in good standing ballot box election notice adequate safeguards



5. Missing page two of APPENDIX G Department of Labor, OLMS Publication "Conducting Local Union Officer Elections" Chapter 7, REQUIREMENTS, para 3 is as follows:

Inspecting the Membership List

CHAPTER 7



In addition to having campaign literature distributed by the union as discussed in Chapter 6, candidates in union officer elections also have a right to inspect a list of members (and their addresses) subject to a collective bargaining agreement which requires union membership as a condition of employment. This right to inspect is limited to once within 30 days before the election and does not include the right to copy the list. In most unions the officer who maintains the membership list will be responsible for making the list available to candidates; election officials will not usually be involved. However, to avoid any misunderstandings, election officials should determine from union officials what procedures will be used to allow inspection and then inform all candidates about them. In addition to permitting inspection, the union may not discriminate in favor of, or against, any candidate with respect to the use of lists of members.

Requirements

- A candidate's right to inspect the union's membership list is limited to a list of members who are subject to a collective bargaining agreement which requires union membership as a condition of employment.
- Even if union membership is not required as a condition of employment, the union may nevertheless decide to allow inspection of its membership list. If the union decides to do so, it must treat all candidates equally and notify them of the decision to allow inspection.
- The right to inspect the membership list is limited to one time within 30 days before the election or 30 days before the mailing of ballots in a mail ballot election.
- A union must allow a bona fide candidate who is seeking to be nominated to run for office the opportunity to inspect the membership list once within 30 days before the election.
- The union is required to maintain the membership list at its principal office but is not required to provide for inspection at other places, such as a satellite union office or work locations of members.
- Candidates do not have the right to copy the membership list, only the right to inspect and/or compare it with a personal list of members.
- If a candidate is permitted to use the membership list for any purpose other than inspection (such as copying), the union must inform all candidates of the availability of the list for that other purpose and give the same privilege to all candidates who request it.
- A candidate has a right to a copy of the union's list of employers only if another candidate uses the union's list of employers for campaigning. (However, under Section 104 of the LMRDA, a member is entitled to review all collective bargaining agreements to which the union is a party.)

Suggestions

- Election officials should discuss with the union official responsible for the membership list where, when, and how it will be made available for inspection and to whom requests for inspection should be directed.
- To avoid charges of unequal treatment among candidates, election officials should notify all candidates in advance of the

6. Missing page, APPENDIX H List of 11 Membership Meeting Places, and first page of notice of 2017 membership meeting vote, is listed below (as found in the original Court File on pacer.gov):

Case: 4:17-cv-02381-RLW Doc. #: 1-12 Filed: 09/08/17 Page: 1 of 1 PageID #: 40

TO: All Members

FROM: Laura Garza, Secretary-Treasurer

DATE: April 18, 2017

RE: Vote on Proposed Amendment to SEIU Local 1 Constitution and Bylaws

In November 2016, member Arthur Clemens proposed an Amendment to Article IX of the SEIU Local 1 Constitution and Bylaws. A copy of the proposed Amendment to Article IX is attached.

Consistent with Article XXVI, Section 1, of the Local's Constitution and Bylaws, the proposed Amendment was presented to the Executive Board at its March 3, 2017, meeting, for determination as to whether the Executive Board would recommend approval of the Amendment. The Executive Board discussed the matter and voted to reject approval of the proposed amendment to the SEIU Local 1 Constitution and By-Laws.

Consistent with Article XXVI, Section 1, of the Local's Constitution and Bylaws, the proposed Amendment (attached) will be presented to the membership at the following scheduled membership meetings for consideration and a vote:

Akron June 3, 2017
@9:00 a.m.
Garfield HS Cafeteria
435 N Firestone Blvd,
Akron,
OH44301

Cleveland
June 3, 2017 @ 12:00 p.m.
1368 East 34th Street
Cleveland, OH 44114

Indianapolis
June 3, 2017@ 1:00 p.m.
1734 W. Washington
Indianapolis, IN 46222

St. Louis June 3, 2017@
11:00 a.m.
Chicago
2725 Clifton Ave.
St. Louis, M.O 63139

June,3, 2017@ 11:00 a.m.
1340 W. Washington Blvd.
Chicago, IL 60607

Columbus
June 3, 2017@ 1:00 p.m.
225 East Broad Street
Columbus, OH 43215

Kansas City
June 3, 2017 @ 10:00 a.m.
4526 Paseo Blvd.
Kansas City, MO 64110

Toledo
June 3, 2017 @11:30 a.m.
Upstairs in Parlor "D"2300
Ashland Ave. Toledo, OH
43620

Cincinnati
June 3, 2017@ 12:00 p.m.
917 Main St
Cincinnati, OH 45202

Detroit
June 3, 2017@ 10:00 a.m.
2211 E. Jefferson Ave.
Detroit, MI 48207

Milwaukee
June 3, 2017 @ 12:00 p.m.
250 E. Wisconsin Ave.
Basement
Milwaukee, WI 53202

Additional Copy of Appendix H

EXHIBIT
F

TO: All Members
FROM: Laura Garza, Secretary-Treasurer
DATE: April 18, 2017
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Consistent with Article XXVI, Section 1, of the Local's Constitution and Bylaws, the proposed Amendment (attached) will be presented to the membership at the following scheduled membership meetings for consideration and a vote:

Akron June 3, 2017 @ 9:00 a.m. Garfield HS Cafeteria 435 N Firestone Blvd, Akron, OH 44301	Chicago June 3, 2017 @ 11:00 a.m. 1340 W. Washington Blvd. Chicago, IL 60607	Cincinnati June 3, 2017 @ 12:00 p.m. 917 Main St. Cincinnati, OH 45202
Cleveland June 3, 2017 @ 12:00 p.m. 1368 East 34 th Street Cleveland, OH 44114	Columbus June 3, 2017 @ 1:00 p.m. 225 East Broad Street Columbus, OH 43215	Detroit June 3, 2017 @ 10:00 a.m. 2211 E. Jefferson Ave. Detroit, MI 48207
Indianapolis June 3, 2017 @ 1:00 p.m. 1734 W. Washington Indianapolis, IN 46222	Kansas City June 3, 2017 @ 10:00 a.m. 4526 Paseo Blvd. Kansas City, MO 64110	Milwaukee June 3, 2017 @ 12:00 p.m. 250 E. Wisconsin Ave. Basement Milwaukee, WI 53202
St. Louis June 3, 2017 @ 11:00 a.m. 2725 Clifton Ave. St. Louis, MO 63139	Toledo June 3, 2017 @ 11:30 a.m. 2300 Ashland Ave. Upstairs in Parlor "D" Toledo, OH 43620	

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7. Petitioner discovered the omission of the missing page on May 20, 2021, and immediately notified the webmaster by email of this error in the hopes it would be quickly corrected.

8. The webmaster responded to Petitioner's email. See Exhibit A.

9. Petition was denied on March 24, 2021.

10. At the time of the Petitioner's submission of this Rule 44 Petition for Rehearing said text is still missing.

11. There is no indication that members of the Supreme Court had an opportunity to read the missing text before making their ruling denying Petition for Writ of Certiorari in this case.

12. The Clerk has not fulfilled his legal obligation when accepting Petitioner's filing fee to properly post said Petition online for public consideration. Therefore, no additional fee should be necessary for the filing of this petition for rehearing.

13. Approximately 60 days elapsed before Petitioner discovered this error, during which time any parties who might be interested in this case were denied the opportunity to read the petition in its entirety and file Amicus Curiae briefs or enter as an intervenor.

14. The missing pages make it impossible for anyone reading said Petition on the internet to determine if the Petitioner's petition has merit, since the very heart of the Petitioner's case has been cut out. In particular, the missing Appendix G

supports the Petitioner's Constitutional argument made on the missing page three that **"It is not possible under the Local One Constitution and Bylaws or the rules of the Department of Labor, Office of Labor and Management Standards (Appendix D), for a rank and file member from St. Louis, Missouri running for Local-wide office to have any chance to be elected to Local-wide office because the Local with the support of the Department of Labor, OLMS, acting under the color of the authority of 29 USC 481(c), will not provide a rank and file member attempting to qualify to be on the ballot to run for Local office with a list of the names, addresses, email addresses, and phone numbers of the rank and file membership.**

Also, Appendix H clearly shows that Local One, SEIU had eleven different places where membership meetings are held on the same day, and it is not possible for members to have Freedom of Assembly at membership meetings, since no rank and file member can be in 11 places at the same time.

15. The actions of the Clerk of the Supreme Court when posting only part of this petition on the internet have violated the Petitioner's First Amendment Right to Freedom of Speech and Freedom of Assembly with the public, to include all parties interested in this case who can communicate by internet, and that interference compounds the denial of the Freedom of Assembly rights that the

Petitioner is arguing that the Respondents in this case in cooperation with the Department of Labor are violating.

WHEREFORE, PETITIONER PRAYS THAT THE ORIGINAL PETITION BE POSTED FOR THE PUBLIC TO READ IN ITS ENTIRETY, ALONG WITH A PUBLIC NOTICE EXPLAINING THIS ERROR, FOR SIXTY DAYS, AFTER WHICH TIME PETITIONER RESPECTFULLY REQUESTS THAT THE SUPREME COURT RULE ON THIS PETITION FOR REHEARING.

Signed:

Arthur J. Clemens Jr.

7-7-21

CERTIFICATE OF STATEMENT OF INTERVENING
CIRCUMSTANCES OF SUBSTANTIAL
OR CONTROLLING EFFECT

I, Arthur J. Clemens Jr., am of sound mind, and am fully competent to state to the matters herein. I certify under oath that this Petition for Rehearing is filed on the basis of intervening circumstances of substantial or controlling effect that took place after I submitted my initial petition.

These circumstances include the failure of the Supreme Court Clerk to properly file my Petition as a matter of public record to which the public and interested parties had reasonable access, as stated in detail in the Petition for Rehearing I am submitting.

SIGNED: Arthur J. Clemens Jr.

DATE: 7-7-21

CERTIFICATE OF GOOD FAITH

I, Arthur J. Clemens Jr., am of sound mind, and am fully competent to state to the matters herein. I certify under oath that this Petition for Rehearing is filed in good faith and is not filed for the purpose of delay.

I would further point out that delay is of no advantage to me whatsoever, since I am a dues paying rank and file member of Local One, SEIU.

SIGNED: Arthur J. Clemens Jr.

DATE: 7-7-21