

A Steward's Tale

I recently came across a situation so outrageous that I had to write about it. I think it is a fitting way to end my APWU career, so with this farewell article, I wish you all the best.

Somonia Williams is a shop steward for Dallas Area Local, American Postal Workers Union, AFL-CIO. An off-duty employee asked Steward Williams to accompany her to her unit while she turned in her medical documentation to return to work. After meeting with the supervisor, the employee was told to leave the building. However, another supervisor told the employee she could remain in the cafeteria with Sister Williams while she finished her lunch. While in the cafeteria the employee got a call from a labor relations specialist advising her to leave the building because her supervisor had called the postal police. The employee immediately left after signing out in the log book. Ms. Williams finished her lunch and returned to the union office.

Shortly thereafter Ms. Williams got a call in the union office from postal police officer summoning her for questioning. Williams told the officer that she would meet with him along with her own steward. The officer responded she had to meet with him alone. Ms. Williams and Chief Steward Marvin Bolds, her Weingarten representative, then went to meet with the officer at the security office.

Ms. Williams entered the office first with her steward following behind. The officer put his arm out to block her steward's entrance and insisted that she meet in the security office alone with him and another officer. Ms. Williams and Chief Steward Bolds then started walking towards the work area. The officer told Ms. Williams to stop and return to the booth or "I will take you down." She submitted to arrest. The officer placed her in handcuffs and pulled her towards the security office, injuring her in the process. The plant manager arrived and asked the officer to release her from the handcuffs because they were hurting her arm, and the officer did so.

The officer later apologized to Ms. Williams, admitted that he was wrong to deny her the assistance of a steward, and assured her no citation would be issued. A few days later the officer returned with a sergeant and issued Somonia Williams a citation, charging her with failing to follow the instructions of a police officer, that is, to enter the office alone and submit to questioning without her steward. The Union filed an NLRB charge alleging that the citation was issued in retaliation for Ms. Williams' invocation of her rights under Weingarten and contractual rights to have the presence of a steward when being questioned. It is plainly obvious that the citation was also intended to cover for injuries suffered by Williams when she was arrested and handcuffed.

The Union has been informed that the Region has found merit in the charge. The NLRB Contempt Adjudication and Compliance Branch also informed our attorney that it will be recommending to the Board that contempt of court sanctions be pursued against the Postal Service in light of what they termed the "egregious" violations and the "great chilling effect" that the Postal Service's conduct will have on employees exercising their Weingarten rights unless strong remedies are achieved.

The Postal Service is a party to an extensive consent stipulation, nationwide in scope, administered by the contempt branch, entered into by the Postal Service to escape earlier contempt of court proceedings by the NLRB. This consent order explicitly "includ[es] the United States Postal Inspection Service." The postal police are part of the Postal Inspection Service. The stipulation followed a decision of the U.S. Court of Appeals enforcing a nationwide NLRB order after postal inspectors were found to have violated Weingarten rights of employees by prohibiting stewards from having private pre-interrogation meetings with employees. *U.S. Postal Service v. NLRB*, 969 F.2d 1064 (D.C. Cir. 1992). In addition, interrogation of a union official about conversations with employees and union officials acting in the official's capacity as a representative violate the NLRA. See *Cook Paint & Varnish Co. v. NLRB*, 648 F.2d 712 (D.C. Cir. 1981), on remand, 258 NLRB 1230 (1981). The Union has made both claims in the NLRB charge in this case. This time the Postal Service will not get out from under a contempt prosecution through this stipulation.

I authorized the National Union to retain a criminal defense lawyer. Williams was charged with violating 39 CFR 232.1(d): "Conformity with signs and directions. All persons in and on property shall

comply with official signs of a prohibitory or directory nature, and with the directions of security force personnel or other authorized individuals." Her lawyer explained to the U.S. Attorney that this regulation did not apply in this circumstance in which Williams was invoking her NLRA and contractual rights at work and was arrested for doing so. More fundamentally, she argued that the regulation does not apply to postal employees at all.

The laws applicable to employees are specified in Section 661.2 of the ELM. Not listed is 18 USC § 3061, which prescribes the powers of the postal police and penalties for violations of certain regulations, including obeying the orders of postal police officers. The only orders that postal employees are required to obey are those of supervisors. ELM 665.15 (Obedience to Orders) states: "Employees must obey the instructions of their supervisors. If an employee has reason to question the propriety of a supervisor's order, the individual must nevertheless carry out the order and may immediately file a protest in writing to the official in charge of the installation or may appeal through official channels." The U.S. Attorney dropped the charge.

Somonia Williams also filed an OWCP claim for injuries to her arm. At first OWCP accepted the claim, but the Postal Service followed with a strongly worded challenge, arguing that Williams was guilty of willful misconduct resulting in the injury. The claims examiner reversed himself, and Williams is appealing. This is a continuation of the vendetta against this steward and the Union will be adding this allegation to the NLRB charge.

Another interesting aspect of the case is the applicability of the Federal Tort Claims Act to this situation. The FTCA applies to the Postal Service. Generally, the FTCA excludes what are known as intentional torts. An exception to the exception, however, exists for torts committed by federal police, including postal police and postal inspectors. Subsection (h) of 28 U.S.C. § 2680 states: Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights [is excluded]: Provided, That, with regard to acts or omissions of investigative or law enforcement officers of the United States Government, the provisions of this chapter ... shall apply to any claim arising ... out of assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution. For the purpose of this subsection, "investigative or law enforcement officer" means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for violations of Federal law.

I anticipate that Williams will file a tort claim over her treatment by the postal police. In fact, if OWCP sticks with its ruling that her injuries are not covered by workers compensation, she could file a personal injury claim as well.

As Moe Biller, a great past APWU President often said, "The Struggle Continues!" I commend Somonia Williams for her service as a steward and fortitude and refusal to be intimidated by the postal police and management. And I commend the Local and its officers for supporting Ms. Williams. I am pleased to have authorized the National's assistance in this matter. She knows we have her back!

Mike Morris