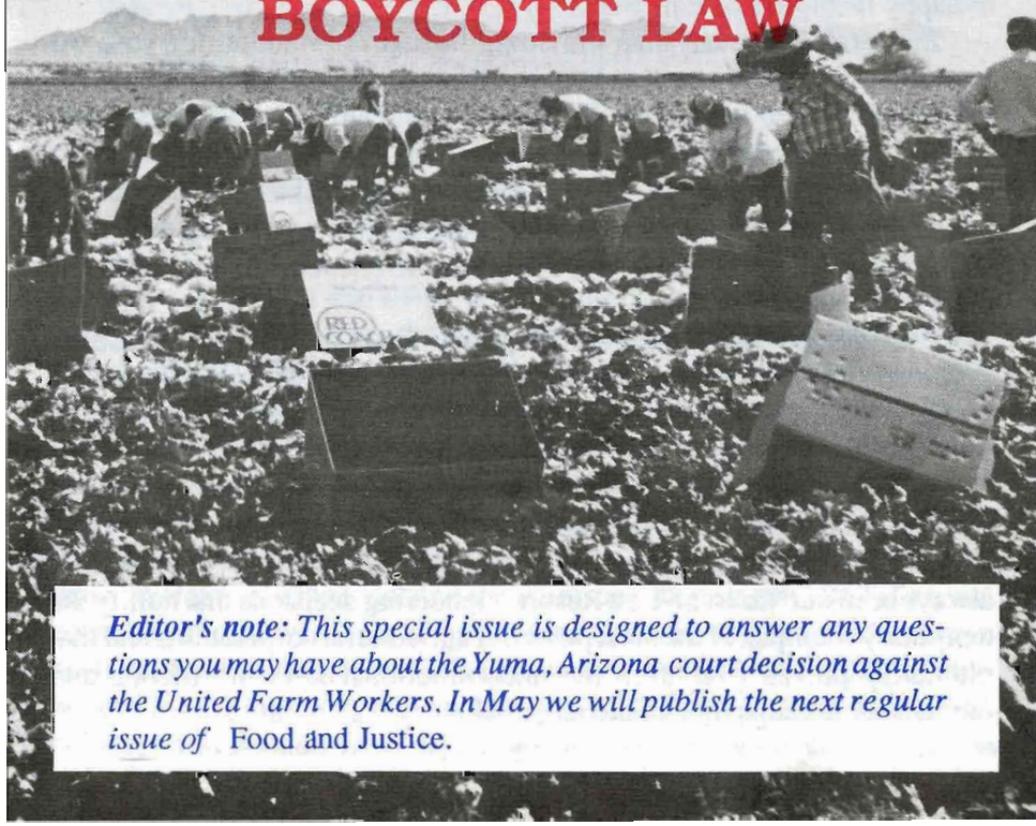


FOOD AND JUSTICE

Published by United Farm Workers

April 1988

UFW LOSES \$5.4 MILLION SUIT IN RURAL ARIZONA COURT FOR BREAKING UNCONSTITUTIONAL BOYCOTT LAW



Editor's note: This special issue is designed to answer any questions you may have about the Yuma, Arizona court decision against the United Farm Workers. In May we will publish the next regular issue of Food and Justice.

Decision in Bruce Church Case

As you may have heard, a Yuma, Arizona court on April 6 ordered our union to pay Bruce Church, Inc. \$5.4 million in damages -- damages that the company says it suffered during our boycott of BCI's Red Coach lettuce.

This court decision is biased, unfair, and unconstitutional. It will not affect us because it will be overturned. It is based on a law which a three-judge federal court in Phoenix, Arizona has already declared unconstitutional.

In the following pages, we have provided information about the decision itself, the legal background of the case, the actions we intend to take to have the decision reversed, a history of the anti-boycott law in Arizona, a history of the relationship between BCI and our workers over the last decade and a half, and a brief profile of rural Yuma County Judge H. Stewart Bradshaw -- including his racist sense of humor that conjures up unhappy memories of Earl Butz.

But more important than providing factual information for you, we want to calm any fears you might have about whether or not we can survive this latest threat to our union. We can and will. During the 25 years of our struggle, we have learned not to be amazed and certainly not frightened by even the most bizarre decisions handed down against us in court -- everything from the most absurd injunctions against boycotting or picketing to multi-million-dollar lawsuits such as the one recently completed in Yuma.

Even though outrageous court decisions no longer surprise or scare us, it saddens farm workers to learn once again that they cannot hope to find justice in rural courts. But we will respond to this latest injustice as we have to every other one in the past -- nonviolently.

As we pursue our legal efforts to have the BCI decision overturned, we will simply channel our anger into redoubling our effort to win the table grape boycott. We appeal to you to join us in that effort. After all, you have always been our Court of Last Resort -- rendering decisions that nullify the temporary triumphs of the most powerful agricultural corporations and that ultimately prevail over even the unconstitutional laws of Arizona and outrageous findings of Yuma courts. 

Arizona Court Awards \$5.4 Million to Bruce Church, Inc.

On Wednesday, April 6, 1988, a Yuma County jury awarded \$5.4 million in damages to Bruce Church, Inc. (BCI) to compensate the company for losses it claims it sustained during the United Farm Workers' boycott of BCI's Red Coach lettuce. The jury deliberated only two hours after a complex, 10-week trial.

H. Stewart Bradshaw, the rural county judge who presided over the trial, directed the jury to find the UFW guilty of violating Arizona's blatantly anti-union farm labor law.

The BCI lawsuit against the union is based on a law written and sponsored by the Farm Bureau, passed by the Arizona Legislature, and signed by Gov. Jack Williams in 1972 (see page 4). The law makes some consumer boycotting, all secondary boycotting, and strikes during harvest illegal.

“The Yuma case will not stop farm workers from organizing and boycotting for their rights.” ”

BCI argued that the UFW violated the Arizona Law by boycotting stores that carried Red Coach lettuce even though *no stores were boycotted in Arizona* and both UFW's and BCI's headquarters are in California. In fact, most of BCI's lettuce is not even grown in Arizona. The company and the judge agreed that Arizona law should control union activity in every state of the union.

Despite the size of the judgment, the UFW's leadership is undaunted. In a press statement the day after the decision, Cesar Chavez described the many avenues of appeal open to the union and then stated: "BCI's lawsuit does show the growers' fear of the boycott. Consumer boycotts have always been the farm workers' most effective nonviolent tool. The current grape boycott is growing stronger every day and will succeed. The Yuma case will not stop farm workers from organizing and boycotting for their rights." 

Arizona Law Written by Growers to Outlaw Farm Labor Unions

In 1972, the right-wing American Farm Bureau Federation began a national campaign to legislate UFW boycotts out of existence. Always at the forefront of anti-union attacks, the Farm Bureau concluded that non-violent boycotts were unstoppable and that only the "right kind of law" could defeat them.

Their legislative campaign extended to every major agricultural state: In California, they sponsored a statewide initiative (Proposition 22) which was soundly defeated by the people on November 7, 1972, by a 58-42% margin. Only in Idaho, Kansas, and Arizona did they succeed in passing the laws they wanted.

These Farm Bureau-sponsored, anti-UFW laws have several things in common:

- The majority of farm workers, who are seasonal and migrant workers, are excluded from participating in union representative elections.
- These laws prohibit strikes during harvest -- in other words, farm workers can only strike when they are unemployed.
- They make all forms of secondary boycotts illegal.
- They outlaw generic name boycotts such as "lettuce" or "grape" boycotts.
- These laws define certain "management rights" which cannot be the subject of collective bargaining (for example, the use of pesticides, introduction of machinery, hiring halls).

The Farm Bureau laws were designed by agribusiness to ensure that farm workers cannot organize and, if they do, that they will have no power to balance the existing power of their employers.

The Farm Bureau's law passed in Arizona and was signed by Gov. Jack Williams on May 11, 1972. A few days before the signing, Cesar Chavez and UFW members and supporters went to Phoenix to appeal to the Governor to veto the law. When asked about the possibility of meeting with farm workers, Governor Williams replied, "As far as I'm concerned, these people do not exist."

Chavez announced a "fast of love" on the day of the signing. He appealed to legislators in every state: "This attack on our union in Arizona and in every major state is also an attack on the spirit of justice in America. Why shouldn't farm workers finally have a chance to hold their heads high in their own organization?... My major concern is not this particular Arizona law, and the fast is not out of anger against the growers. My concern

is the spirit of fear that lies behind such laws in the hearts of growers and legislators across the country. Somehow these powerful men and women must be helped to realize that there is nothing to fear from treating their workers as fellow human beings."

On June 4, 1972, 7,000 people attended the Mass that concluded Chavez' 24-day fast. The UFW immediately launched a voter registration drive and recall campaign against Governor Williams. By the end of the summer, petitions with 176,317 recall signatures were officially submitted (only 103,000 were required).

Arizona's attorney general threw out many of the signatures on technical grounds. He was later reversed by the courts but by that time Governor Williams had already served his term and had been replaced by a new governor.



Arizona Farm Labor Law: Unconstitutional

While one part of the UFW was responding politically to the 1972 Arizona Farm Labor Law (see above), the union's attorneys went to court to challenge the constitutionality of a law that clearly deprives workers of their right to participate in union elections and severely limits the free-speech rights of consumers.

In April 1978, a three-judge federal appeals court found the law to be unconstitutional and enjoined the State of Arizona from enforcing it. The growers were outraged and used all their considerable political strength to persuade Gov. Bruce Babbitt to appeal the federal court decision to the U.S. Supreme Court.

In October 1978, the Supreme Court agreed to hear Arizona's appeal, and on June 5, 1979, a divided U.S. Supreme Court overturned the lower court's decision on technical grounds. However, the high court agreed that parts of the Arizona law were probably unconstitutional. It sent the law back to the state courts, arguing that an actual case, to test the law, must first go through state courts before reaching the highest court in the land.

Bruce Church, Inc. and Judge Bradshaw have now presented the state and federal courts with the specific case they need to rule on the constitutionality of the anti-farm worker Arizona Farm Labor Law.

BCI Decision To Be Overturned

As we go to press, the Yuma court has rendered a decision but has not yet "entered a judgment" against the UFW. When this latter step is taken, the union will have 15 days to respond to the judgment and then another 30 days to enter an appeal.

The main thrust of the appeal will be based on people's free-speech rights under the First Amendment to the Constitution. The Arizona Farm Labor Law, unlike the National Labor Relations Act (NLRA), attempts to outlaw all forms of secondary boycott activity. The NLRA prohibits "secondary picketing" against a retailer handling a boycotted product. The Arizona law attempts to make illegal such actions as the following:

- calling friends or relatives on the phone to urge them to stop shopping at A&P and Safeway because they carry boycotted grapes and lettuce,
- going to a local church group to ask the people to stop shopping at A&P and Safeway,
- standing in a public parking lot and asking customers not to shop at a store selling a boycotted product,
- wearing a button that says "Boycott A&P,"
- taking out a newspaper ad that explains a product boycott and urges people to stop shopping at A&P or Safeway, or
- sending mail to customers urging them to boycott a store because of a product they carry.

UFW attorneys are certain that these are protected, First Amendment rights and that the Arizona law will be declared unconstitutional.

To make matters more absurd, the Arizona Farm Labor Law claims to restrict these activities even if they are carried on in California or New York or Florida or Texas and even if the union's headquarters and the boycotted company's headquarters are in California, not Arizona.

Bruce Church, Inc. and Judge Bradshaw also have a special problem in enforcing the court judgment. The UFW has no assets in Arizona. In order to attach union assets in California, BCI will have to persuade a California court that California law (which permits secondary boycotts where workers have voted for the union in a secret ballot election) is irrelevant and that Arizona statutes should be enforced, not only in Arizona, but in California and the rest of the world.

Finally, it is too early in this case to know if it will be necessary for the UFW to post a large bond in order to appeal the judgment. We will keep all of our friends informed as new developments occur. 

Workers' Testimonials True

In its suit against the United Farm Workers, Bruce Church, Inc. claimed the UFW used "untruthful and deceptive" publicity in its boycott materials. For example, BCI said it was deceptive for the UFW to accuse BCI of using child labor. However, for an entire morning UFW attorneys read to the jury -- from BCI's own employee roster -- the names of workers under 16, some as young as seven and eight years old. BCI's personnel director, Larry Silva, was forced to admit on the stand that child labor was used at BCI.

UFW supporters may recall that the UFW used testimonial letters of BCI workers and their family members in its boycott literature. The letters of Martina Zuniga, Esteban Pena, and Antonia Garcia were among those referred to during the trial.

The company said UFW claims of sexual harassment were not true. However, the unrebutted testimony of Martina Zuniga established that foremen demanded sexual favors from her and other young women to avoid demotions. BCI attorneys did not call the foremen to the stand to deny the allegations.

Esteban Pena's letter explained how his wife became ill at work and asked her foreman to let her get off a machine and stop working. Three times he refused. Finally, she went to the workers' bus where she was left unattended for several hours. When the foreman noticed that Mrs. Pena's lips had turned purple, she was taken to a neighbor's house and left on the porch, where she was later found dead.

Mike Payne, former BCI vice-president, admitted that the company never sent the grieving family a sympathy card. Worse, he also admitted on the stand that BCI sent a notice of Mrs. Pena's termination to the Penas "for having died." He also acknowledged that BCI never sent an apology for its disregard of the family's feelings caused by the callous termination notice.

Antonia Garcia's husband and two other BCI workers were killed when the car they were riding in crashed one night into a huge land leveler which BCI had intentionally placed across a public road to keep UFW organizers out of the BCI labor camp. The company claimed it was not responsible because the driver had been drinking and exceeding the speed limit. However, company officials acknowledged that Francisco Murillo, a worker who had been ordered to block the road with the land leveler, had warned his supervisor that someone could be hurt by placing it across the road.

BCI disliked having consumers hear these accounts and tried to discredit them by labeling them, without justification, as deceptive and untruthful. 

Judge Bradshaw: Bad Humor Man

The long trial in the Bruce Church, Inc. lawsuit against the UFW that began on February 2 and ended on April 6 was presided over by H. Stewart Bradshaw, a rural county judge with clearly separated moral rules for in-court sessions and in-chamber meetings with attorneys.

Bradshaw, 53, who was born in Independence, Missouri, and passed the Arizona bar a year after obtaining his law degree at the University of Arizona College of Law in 1966, once met with UFW attorneys, Federico Sayre and Chris Schneider, after one of their witnesses had used the expression, "For God's sake!" "I will not tolerate any blasphemous language in this court," he warned them with puritanical precision.

Racist Humor

On the very last day of the trial, immediately after Bradshaw had read his instructions to the jury, he met with attorneys in his chambers at the request of the BCI attorneys, who felt he had read the instructions improperly. During the chit-chat after the complaint was dealt with, the chain-smoking judge suddenly blurted out, "I gotta tell you this great joke I heard last night!"

After taking a couple more drags and chuckling to himself a bit, he went on: "Do you know how to make a Mexican omelette? [Pause] Well, first you have to go out and steal three eggs..."

An embarrassed silence followed. Bradshaw relished his racist joke so much he couldn't help but repeat the punch line a couple more times. Then UFW Attorney Sayre said quietly but firmly: "I don't find ethnic jokes humorous. I don't tell them and I don't like to hear them." 

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