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UNION LAWYERS FIGHT “DICTATOR” COX’S ORDER VS. WATER STRIKE; WORKERS STAND FIRM

- *Lawyers say federal law prohibits Cox’s action, question Cox’s impartiality*
- *Picket lines remain strong, workers determined*

By Diane Bukowski

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DETROIT – Lawyers for striking Detroit water and sewerage workers have gone into overdrive to overturn a “temporary restraining order” against the work stoppage, issued by U.S. District Court Judge Sean Cox at 8:45 a.m. today.



Meanwhile, picket lines at the Wastewater *Local 207 attorneys Driver, Washington* Treatment Plant this afternoon remained strong, with members of Local 207 of the American Federation of State, County and Municipal Employees (AFSCME) determined to stay out.

Attorneys Shanta Driver and George Washington said during a press conference at noon that Cox has no authority as a federal judge to issue such an order. They are asking him to dissolve the order and recuse himself. They are also filing for a “writ of mandamus” with the U.S. Sixth Circuit Court of Appeals which would order him to do so.

The Sixth Circuit is already scheduled to hear a multi-union appeal of Cox’s Nov. 4, 2011 order, which unilaterally laid out employment terms for DWSD workers, on Oct. 9, 2012 at 9 a.m. in Cincinnati.

“Judge Cox is acting like a dictator,” Driver said. “We got a call yesterday from his ‘Special Master’ [David Ottenwess] telling us that Judge Cox planned to have a meeting this afternoon to discuss the issues involved. He said he’d call us back and give us the time. Today, we heard from some other lawyers that Judge Cox issued the TRO.”



Judge Sean Cox

Driver added, “This is about all of Detroit, whether Detroiters are entitled to have democratic rights over anything at all. Judge Cox hasn’t even allowed any workers or union leaders to testify before him, he’s too busy re-writing their contract himself.”

The Local’s motion for recusal says in part that Cox has “essentially become a part of the management negotiating team by repeatedly issuing, at management’s private request, orders that have changed major contractual and bargaining rights of Local 207’s members while denying any efforts by Local 207 or any other labor organization to intervene or oppose those changes.”

Cox earlier denied motions by AFSCME, the United Auto Workers (UAW), and the International Union of Operating Engineers (IUOE) to intervene in *United States of America v. the City of Detroit*, Case #77-71100.

Cox’s TRO enjoins not only members of AFSCME Water Department Locals 207 and 2920, but also “all persons acting in concert with them,” from “engaging or participating in the strike,” and “obstructing, preventing or unlawfully interfering with DWSD or any of its employees or any other person or persons from entering DWSD property.”

It bans a host of other actions including violence and vandalism, as well as “failing to report to work or conduct work in accordance with DWSD personnel and attendance policies.”



Local 207 members stand strong.



Getty Images

Mayor Dave Bing

It does not say how Cox plans to force the workers back on the job.

Cox also cites threats to public health and safety, although Local 207 President John Riehl said his members struck the Wastewater Treatment Plant instead of drinking water facilities to prevent such problems.

Detroit Mayor Dave Bing issued a statement endorsing Cox’s order, saying “It is imperative that there be no interruption in the service or an impact on the quality of water provided to our citizens or any negative impact on the environment.”

The City claimed in its motion that the work stoppage at the WWTP threatens to increase pollution in the Detroit River, but Driver said reduction of the DWSD workforce by 81 percent presents a greater threat to the environment.

The City of Detroit's motion for a restraining order includes as attachments the flier Local 207 published calling for community support, another informational local flier listing management's demands, and an unrelated flier from the grass-roots "Retirees Action Movement." The last was passed out at a Detroit General Retirement System (DGRS). It calls on city retirees to fight attempts to restructure their pension boards.

Riehl, who is also an elected DGRS trustee, said at that meeting that he had not seen the flier and did not know who put it out.

Washington said he is outraged.

"The water department is staffed by mainly Black residents of Detroit," he said. "The judge is telling them that 81 percent of them are going to lose their jobs and they can't do anything about it. He is treating them like the dirt under his feet. They are working in unbelievably bad conditions, the dirtiest, hottest jobs possible."

Local 207's motion to dissolve the order says Cox as a federal judge has no authority to ban any strike or work stoppage, under terms of the federal Norris-LaGuardia Act as well as other federal legislation.

According to the motion, the U.S. Congress passed the Norris-LaGuardia Act during the Great Depression in response to "exposes of the federal courts' practice of allowing employers to impose the most outrageous employment conditions and then to procure ex parte and preliminary injunctions to stop the strikes that opposed those conditions." Cox has set a hearing on the TRO for Oct. 11, 2012, under federal court rules which mandate that such a hearing must be held within 10 days.

Washington said the unions involved in the Sixth Circuit Court appeal are planning to bring supporters with them for that hearing Oct. 9. Those who are interested in attending can call 313-468-3398.

