

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

F I L E D

June 23, 2010

No. 09-60156

Lyle W. Cayce
Clerk

NATIONAL LABOR RELATIONS BOARD,

Petitioner

v.

COASTAL CARGO COMPANY INC,

Respondent

Application for Enforcement of an Order of the National Labor Relations
Board
15-CA-18215

Before REAVLEY, DAVIS, and STEWART, Circuit Judges.

PER CURIAM:*

In this case, we are asked to review whether the National Labor Relations Board (the "Board") erred in finding that Coastal Cargo Company ("Coastal Cargo") committed unfair labor practices in violation of the National Labor Relations Act.

On appeal, Coastal Cargo raised a threshold issue, arguing that under Section 3(b) of the Act, the two-member Board which issued the order in this case was without lawful authority to render a decision. While this appeal was

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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pending, the Supreme Court decided *New Process Steel, L.P. v. National Relations Board*, 560 U.S. ____ (2010), and agreed with respondent's position that the two member board had no authority to adjudicate cases pending before the Board.

Accordingly, we vacate the Board's order and remand for further proceedings consistent with this opinion.

VACATED and REMANDED.