

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FARM LABOR ORGANIZING COMMITTEE,)
1221 Broadway Street)
Toledo, OH 43609,)

COMITÉ DE APOYO A LOS TRABAJADORES)
AGRÍCOLAS,)
4 S. Delsea Drive)
Glassboro, NJ 08028,)

SIN FRONTERAS ORGANIZING PROJECT,)
201 East Ninth Avenue)
El Paso, TX 79901,)

WORKERS' CENTER OF CENTRAL)
NEW YORK,)
2013 E. Genesee Street)
Syracuse NY 13210,)

PINEROS Y CAMPESINOS DEL NOROESTE,)
300 Young Street)
Woodburn, OR 97071, and)

Civil Action No. 24-706

COALITION OF FLORIDA FARMWORKER)
ORGANIZATIONS,)
778 W. Palm Drive)
Florida City, FL 33034,)

Plaintiffs,)

v.)

JULIE A. SU, in her official capacity as)
Acting Secretary of Labor,)
200 Constitution Avenue NW)
Washington, DC 20210, and)

U.S. DEPARTMENT OF LABOR,)
200 Constitution Avenue NW)
Washington, DC 20210,)

Defendants.)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. The Secretary of Labor has promulgated regulations to coordinate the activities of various components of the U.S. Department of Labor (DOL) as they relate to the enforcement of statutes intended to protect farmworkers. 29 C.F.R. § 42. Among other things, the regulations require that DOL establish Regional Farm Labor Coordinated Enforcement Committees that annually develop written coordinated enforcement plans, maintain contact with farm labor groups, and hold annual public meetings. *Id.* §§ 42.20(c), (f). Defendants have failed to fulfill these mandatory obligations. Plaintiffs are farmworker organizations aggrieved by defendants' failure to comply with its coordinated enforcement regulations. They bring this action under the Administrative Procedure Act (APA) to "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1).

JURISDICTION

2. This Court has jurisdiction under 28 U.S.C. § 1331.

PARTIES

3. Plaintiff Farm Labor Organizing Committee (FLOC) is a farmworker labor union with nearly 8,000 members, most of whom work in Ohio, North Carolina, or South Carolina. Founded in 1967, FLOC's goals are to ensure that farmworkers have a voice in decisions that affect them in the workplace and in their communities and to bring all participants in the agricultural supply chain together to improve working conditions for farmworkers. FLOC's priorities include advocating for better enforcement of farmworker protective statutes. FLOC supports efforts to improve the enforcement of such laws by DOL, including its Wage and Hour Division (WHD) and Occupational Safety and Health Administration (OSHA). If DOL established Regional Farm Labor Coordinated Enforcement Committees that held annual public meetings to

exchange information and coordinate with groups interested in farmworker rights, FLOC and members of FLOC would attend and participate.

4. Plaintiff Comité de Apoyo a los Trabajadores Agrícolas (CATA) is a non-profit organization that engages in organizing and empowering immigrant farmworker communities in New Jersey, Pennsylvania, and Maryland. Founded in 1979 by migrant farmworkers, CATA is a grassroots membership-based organization that focuses on issues of workers' rights, health and safety in the workplace, immigrants' rights, and food justice. CATA's priorities include strengthening enforcement of statutes and regulations designed to protect farmworkers, who are a uniquely vulnerable and isolated population. CATA supports efforts to improve the enforcement of such laws by DOL, including WHD and OSHA. If DOL established Regional Farm Labor Coordinated Enforcement Committees that held annual public meetings to exchange information and coordinate with groups interested in farmworker rights, CATA and members of CATA would attend and participate.

5. Plaintiff Sin Fronteras Organizing Project (SFOP) is a Texas nonprofit corporation that has served farmworkers and advocated on their behalf since 1983. SFOP provides services to the farmworker community, including housing, meals, and education regarding farmworkers' legal rights. SFOP largely serves day laborers who commute from El Paso, Texas, to agricultural jobs in Southern New Mexico. SFOP's advocacy includes petitioning government agencies to engage in enforcement activities and providing information to policymakers. SFOP supports efforts to improve the enforcement of agricultural worker protection laws by DOL, including WHD and OSHA. If DOL established Regional Farm Labor Coordinated Enforcement Committees that held annual public meetings to exchange information and coordinate with groups interested in farmworker rights, SFOP would attend and participate.

6. Plaintiff Workers' Center of Central New York (WCCNY) is a membership-based, non-profit organization based in Syracuse, New York. Its members are farmworkers and other low-wage workers. Through leadership development, collective action, popular education, and policy advocacy, WCCNY seeks to support and empower low-wage workers to combat workplace abuses and to fight for improved wages and working conditions. Since 2013, WCCNY has convened and coordinated various committees of agricultural workers dedicated to advancing farmworkers' rights under the law. WCCNY regularly holds education sessions, trainings, and meetings with farmworkers related to workplace rights, and engages in advocacy and support around issues of fair pay, health and safety, and sanitary housing. WCCNY supports efforts to improve the enforcement of farmworker protective statutes by DOL, including WHD and OSHA. If DOL established Regional Farm Labor Coordinated Enforcement Committees that held annual public meetings to exchange information and coordinate with groups interested in farmworker rights, WCCNY and members of WCCNY would attend and participate.

7. Plaintiff Pineros y Campesinos del Noroeste (PCUN) is Oregon's farmworker union. Based in Woodburn, Oregon, PCUN's mission is to empower farmworkers in Oregon by building community, increasing Latinx representation in elections, and engaging in policy advocacy on both the national and state levels. PCUN values the ability of workers to take action against exploitation and all of its effects and continues to build an agenda that strengthens workers' rights by creating safer workplaces, advocating for fair wages, and pushing for economic security. PCUN was founded by farmworkers and has a membership of more than 9,000 workers. PCUN and its members want to improve the enforcement of laws protecting farmworkers, including laws enforced by DOL's WHD and OSHA. If DOL established Regional Farm Labor Coordinated Enforcement Committees that held annual public meetings to exchange information and coordinate

with groups interested in farmworker rights, PCUN and members of PCUN would attend and participate.

8. Plaintiff Coalition of Florida Farmworker Organizations (COFFO) is a nonprofit organization whose main objective is to enhance the living and working conditions of migrant and seasonal farmworkers and the rural poor in Florida. COFFO delivers services in 13 counties in the state of Florida and works with other farmworker organizations to ensure that farmworkers benefit from the services available, and that duplication is kept to a minimum. COFFO has participated in stakeholder meetings hosted by DOL's WHD. If DOL established Regional Farm Labor Coordinated Enforcement Committees that held annual public meetings to exchange information and coordinate with groups interested in farmworker rights, COFFO would attend and advocate on behalf of the farmworker population of Florida.

9. Defendant Julie A. Su is Acting Secretary of Labor and charged with the supervision and management of DOL. She has authority to enforce the agency's regulations. Plaintiffs sue Acting Secretary Su in her official capacity.

10. Defendant DOL is an agency of the United States within the meaning of the APA. It is responsible for complying with its coordinated enforcement regulations, 29 C.F.R. § 42.

BACKGROUND

11. DOL promulgated the coordinated enforcement rule on June 10, 1980, and it took effect on July 1, 1980. *See* 45 Fed. Reg. 39,486 (Jun. 10, 1980). The rule was issued as part of a settlement agreement concluding *NAACP v. Brennan*, No. 72-2010 (D.D.C.), *sub nom.* *NAACP v. Marshall*.

12. In *NAACP*, farmworker organizations, advocates, and individual farmworkers challenged DOL's systemic failure to enforce farmworker protective statutes and to require that

federally funded state agencies comply with their obligations under statutes administered by DOL. The federal district court held that DOL had violated the plaintiffs' rights under the Fifth Amendment, Title VI of the Civil Rights Act, and the Wagner-Peyser Act. *See NAACP v. Brennan*, 360 F. Supp. 1006, 1015 (D.D.C. 1973). The court entered a declaratory judgment as to DOL's past violations of the plaintiffs' rights and an injunction that prohibited DOL from engaging in unlawful practices against farmworkers. *Id.* at 1018. The court retained jurisdiction to monitor DOL's efforts to reform its practices and "to insure that any further relief which may prove necessary to protect Plaintiffs is provided." *Id.* at 1019. In the years that followed, the court issued a series of orders designed to improve DOL's enforcement of farmworker protective statutes. Certain of those orders were dissolved as part of a settlement agreement that resulted in the coordinated enforcement rule. *See* 45 Fed. Reg. at 39,486.

13. The rule sets forth procedures for coordinating DOL's enforcement activities relating to farmworkers. Among other things, the rule is intended to "[c]oordinate DOL enforcement efforts with related activities of farmworker groups," 29 C.F.R. § 42.2(a)(4), and to "[e]stablish an information exchange which will afford the Department, farmworker groups, and other concerned parties outside the Department of Labor the opportunity to exchange information concerning wages, hours and working conditions," *id.* § 42.2(a)(5).

14. The rule establishes a National Farm Labor Coordinated Enforcement Committee to review and improve the effectiveness of and coordination among all DOL agencies assigned responsibilities related to farmworkers. *Id.* §§ 42.3–5. The rule also requires the establishment of Regional Farm Labor Coordinating Committees, which must annually prepare farm labor enforcement strategies for review by the National Committee. *Id.* § 42.6. The National Committee must "develop an annual coordination plan concerning farm labor-related responsibilities of the

Department, including migrant housing inspections, the referral of complaints, enforcement action on violations of federal or State employment-related laws subject to the jurisdiction of DOL, or regulations administered by DOL or appropriate State agencies, and assistance to stranded migrant farmworkers.” *Id.* § 42.8(a).

15. The rule requires that the Regional Committees meet on at least a quarterly basis, exchange information on enforcement activities, develop a written coordinated enforcement strategy, maintain contacts with farm labor groups, and coordinate cross-training of enforcement personnel within the region. *Id.* § 42.20(c).

16. The rule requires that, “[t]o facilitate coordination with farm labor groups and growers in each region, the respective Regional Committee shall hold an annual public meeting, transcribe or recorded at the option of the Regional Committee, which shall be: (1) Publicized to all appropriate migrant farmworker and grower associations in the region; (2) Conducted by the director of the Regional Committee with other DOL agency representatives participating as necessary; and (3) Opened to all members of the public.” *Id.* § 42.20(f).

17. DOL has failed to maintain the National and Regional Committees required by the rule.

18. DOL has failed to coordinate its enforcement efforts with related activities of farmworker groups and has failed to exchange information and maintain contacts with farmworker groups.

19. DOL has failed to ensure that the National Committee annually develops a plan to coordinate DOL’s enforcement of farmworker protective statutes.

20. DOL has failed to ensure that Regional Committees annually prepare farm labor enforcement plans.

21. DOL has failed to hold annual public meetings in each region to facilitate coordination with farm labor groups and to provide an opportunity to exchange information.

22. On information and belief, DOL has not held a public meeting of a Regional Committee since 2017.

23. On information and belief, DOL has not developed national and regional coordinated enforcement plans for many years.

24. DOL's failure to maintain the committees, exchange information and coordinate its enforcement efforts with farmworker groups, and hold annual public meetings in each region has injured plaintiffs and their members. A key purpose of the annual public meetings is to improve the enforcement of farmworker protective statutes by facilitating the exchange of relevant information concerning farmworkers' wages, working conditions, and housing. Because DOL has not maintained the committees or held the annual public meetings, plaintiffs have been denied an opportunity to inform DOL of the problems experienced by farmworkers, learn of DOL's efforts to address such problems, and coordinate their activities.

CLAIM FOR RELIEF

25. Defendants' failure to establish and maintain a National Farm Labor Coordinated Enforcement Committee and Regional Farm Labor Coordinating Committees that annually develop written coordinated enforcement plans, maintain contact with farm labor groups to exchange information and coordinate activities, and hold annual public meetings as described in 29 C.F.R. § 42.20(f) constitutes agency action unlawfully withheld or unreasonably delayed in violation of the Administrative Procedure Act, 5 U.S.C. § 706(1).

WHEREFORE, plaintiffs request that this Court:

- A. Declare unlawful defendants' failure to establish and maintain a National Farm Labor Coordinated Enforcement Committee and Regional Farm Labor Coordinating Committees, annually develop written coordinated enforcement plans, maintain contact with farm labor groups to exchange information and coordinate activities, and hold the annual public meetings described in 29 C.F.R. § 42.20(f);
- B. Order defendants to establish and maintain a National Farm Labor Coordinated Enforcement Committee and Regional Farm Labor Coordinating Committees, annually develop written coordinated enforcement plans, maintain contact with farm labor groups to exchange information and coordinate activities, and hold the annual public meetings described in 29 C.F.R. § 42.20(f);
- C. Award plaintiffs their reasonable costs and attorneys' fees under 28 U.S.C. § 2412; and
- D. Grant such other relief as this Court may deem just and proper.

Respectfully submitted,

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