

Manuel Martinez et al)

In the 45th Judicial District

vs. (

Court, Bexar County, Texas.

Owen W. Kilday, et al)

To the Honorable Judge of said Court:

The petition of Manuel Martinez and Pedro Ruiz, residents of Bexar County, Texas, and Donald Henderson, of Washington, D.C. and now sojourning in San Antonio, Bexar County, Texas, complaining of Owen W. Kilday, Phil L. Wright, and Wm. Christoph, residents of San Antonio, Bexar County, Texas, hereinafter called defendants, for cause of action, respectfully represents:

1. Plaintiffs, Manuel Martinez and Pedro Ruiz, are members of the Pecan Workers Union, Local 172, of the United Cannery, Agricultural, Packing and Allied Workers, and are Vice Chairmen of the STRIKE COMMITTEE, elected by the members of said Pecan Workers' Union; and Donald Henderson is the general president of said United Cannery, Agricultural, Packing and Allied Workers, parent or national organization.

2. The defendant, Owen W. Kilday, is the Chief of Police of the City of San Antonio, in charge of the police department of said city; the defendant, Phil L. Wright, is Fire & Police Commissioner in and for said City; and the defendant, Wm. Christoph, is a lieutenant under the said Owen W. Kilday, acting under the orders and instructions of the said Owen W. Kilday.

3. Acting upon the admitted instructions of the said Owen W. Kilday and Phil L. Wright, the defendant, Wm. Christoph, and his subordinate officers, have, during the several weeks preceding the filing of this petition, arrested and filed complaints against, and are still arresting and filing complaints against numerous members of said Union; that plaintiffs, Manuel Martinez and Pedro Ruiz, and more than one hundred members of said Union have been arrested without warrants, and without lawful authority, and taken to the city jail, and there charged with the alleged offenses of unlawful assembly, illegal obstruction of sidewalk, unlawful distribution

In the 43rd Judicial District Court, Bexar County, Texas. Manuel Martinez et al vs Owen W. Kilday, et al

To the Honorable Judge of said Court:

The petition of Manuel Martinez and Pedro Ruiz, residents of Bexar County, Texas, and Donald Henderson, of Washington, D.C. and now sojourning in San Antonio, Bexar County, Texas, complaining of Owen W. Kilday, Phil L. Wright, and Wm. Christoph, residents of San Antonio, Bexar County, Texas, hereinafter called defendants, for cause of action, respectfully represents:

1. Plaintiffs, Manuel Martinez and Pedro Ruiz, are members of the Peon Workers Union, Local 172, of the United Cannery, Agricultural, Packing and Allied Workers, and are Vice Chairmen of the STRIKE COMMITTEE, elected by the members of said Peon Workers' Union; and Donald Henderson is the general president of said United Cannery, Agricultural, Packing and Allied Workers, parent or national organization.

2. The defendant, Owen W. Kilday, is the Chief of Police of the City of San Antonio, in charge of the police department of said city; the defendant, Phil L. Wright, is Fire & Police Commissioner in and for said city; and the defendant, Wm. Christoph, is a lieutenant under the said Owen W. Kilday, acting under the orders and instructions of the said Owen W. Kilday.

3. Acting upon the admitted instructions of the said Owen W. Kilday and Phil L. Wright, the defendant, Wm. Christoph, and his subordinate officers, have, during the several weeks preceding the filing of this petition, arrested and filed complaints against, and are still arresting and filing complaints against numerous members of said Union; that plaintiffs, Manuel Martinez and Pedro Ruiz, and more than one hundred members of said Union have been arrested without warrants, and taken to the city jail, and there charged with the alleged offenses of unlawful assembly, illegal obstruction of sidewalk, unlawful distribution

of hand-bills, and illegal advertising, said arrests having been made, and are being made, by defendants, and their subordinate officers, purportedly under certain city ordinances, which defendants well know are not applicable to plaintiffs and the members of their said Union, so arrested, and while defendants well know, and knew at the time of said arrests, that the persons so arrested were not then, and are not now guilty of said offenses, or either of them, but that said arrests have been made and are being made with the avowed and expressed purpose of intimidating, and harrassing the members of said Union, and for the purpose of breaking up their Union organization, hereinafter more fully set forth, and that unless restrained by this Honorable Court, said defendants, undertaking to act under color of authority, and in their capacity as sforessaid, will continue to arrest members of said Union, without warrant, and without color of legal process, will transport them to the city jail, in the City of San Antonio, Bexar County, Texas, and there hold them, under color of the complaints above mentioned.

4. The members of said Union have been guilty of no violence, whatsoever, and of no violation of the law, and the said action and threatened action on the part of the defendants and their subordinate officers, constitutes an unlawful interference with, and an unauthorized attempt to prevent the members of said Union from exercising the right, guaranteed and granted them under the Constitutions of the United States of America, and of the State of Texas, to assemble together peaceably, for their common good.

5. Said Owen W. Kilday, and his subordinate officers, have at numerous times, stated that they would not recognize any strike lawfully called by the members of said Union, that they would not allow any picketing, even if peaceable and lawful, to be carried on by the members of said Union, that they would not allow any assembly of or by members of said Union, that he, Kilday, would take it upon himself, and make it his own personal business, to see that the strike, which has been lawfully called, and is now being lawfully carried on by the members of said Union, would not be successful, and that he would see to it, that no settlement of the strike be effected, if he could help it, and that he would not permit the

of hand-bills, and illegal advertising, said arrests having been made, and are being made, by defendants, and their subordinate officers, purportedly under certain city ordinances, which defendants well know are not applicable to plaintiffs and the members of their said Union, so arrested, and while defendants well know, and know at the time of said arrests, that the persons so arrested were not then, and are not now guilty of said offenses, or either of them, but that said arrests have been made and are being made with the avowed and expressed purpose of intimidating, and harassing the members of said Union, and for the purpose of breaking up their Union organization, hereinafter more fully set forth, and that unless restrained by this Honorable Court, said defendants, undertaking to act under color of authority, and in their capacity as aforesaid, will continue to arrest members of said Union, without warrant, and without color of legal process, will transport them to the city jail, in the City of San Antonio, Bexar County, Texas, and there hold them, under color of the complaints above mentioned.

4. The members of said Union have been guilty of no violence, whatsoever, and of no violation of the law, and the said action and threatened action on the part of the defendants and their subordinate officers, constitutes an unlawful interference with, and an authorized attempt to prevent the members of said Union from exercising the right, guaranteed and granted them under the Constitution of the United States of America, and of the State of Texas, to assemble together peacefully, for their common good.

5. Said Owen W. Kilday, and his subordinate officers, have at numerous times, stated that they would not recognize any strike lawfully called by the members of said Union, that they would not allow any picketing, even if peaceable and lawful, to be carried on by the members of said Union, that they would not allow any assembly of or by members of said Union, that he, Kilday, would take it upon himself, and make it his own personal business, to see that the strike, which has been lawfully called, and is now being lawfully carried on by the members of said Union, would not be successful, and that he would see to it, that no settlement of the strike be effected, if he could help it, and that he would not permit the

members of said Union to continue their Union organization or activities, and "that the defendants and their subordinate officers have broken up the peaceful and lawful picketing carried on by plaintiffs and the members of said Union and have prevented and are continuing to prevent such lawful picketing".

6. Acting under instructions of said Chief of Police, his subordinate officers have, at numerous times prior to the filing of this petition, invaded the precincts of private property, upon which members of said Union have congregated peacefully, for their common good, and without warrants or lawful process, have arrested members of said Union, while so engaged in carrying on their Union and business activities, and have cursed and abused members of said Union, have called them vile names, and have threatened them with bodily harm, "and said police officers have assaulted and beaten plaintiffs and members of said Union and their sympathizers by the use of their clubs, tear-gas bombs and other dangerous weapons and have threatened them with even more serious injuries, unless", they would submit to their unlawful arrests, said police officers, including defendants, at all times, well knowing that the members of said Union so arrested and charged with the commission of the offenses above described, were not guilty, and were entirely innocent thereof, all of which action of said defendants, and their subordinate officers, constitutes a flagrant violation of Section 27 of Article I, of the Constitution of the United States, reading in part as follows:

"Section 27,-The citizens shall have the right, in a peaceable manner, to assemble together for their common good";

and also constitutes a flagrant violation of Section 19 of Article I, of the Constitution of the State of Texas, known as the Bill of Rights, reading in part as follows:

"Section 19,- No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised except by the due course of the law of the land",

and said action of defendants is also in violation of Articles 5152 and 5153, of the Revised Civil Statutes of the State of Texas, guaranteeing to members of trade Unions the right to organize into associations for their common good.

members of said Union to continue their Union organization or activities, and that the defendants and their subordinate officers have broken up the peaceful and lawful picketing carried on by plain-tiffs and the members of said Union and have prevented and are con-tinuing to prevent such lawful picketing".

6. Acting under instructions of said Chief of Police, his subordinate officers have, at numerous times prior to the filing of this petition, invaded the precincts of private property, upon which members of said Union have congregated peacefully, for their common good, and without warrants or lawful process, have arrested members of said Union, while so engaged in carrying on their Union and business activities, and have cursed and abused members of said Union, have called them vile names, and have threatened them with bodily harm, and said police officers have assaulted and beaten plaintiffs and members of said Union and their sympathizers by the use of their clubs, tear-gas bombs and other dangerous weapons and have threatened them with even more serious injuries, unless they would admit to their unlawful arrests, said police officers, in-cluding defendants, at all times, well knowing that the members of said Union so arrested and charged with the commission of the of-fenses above described, were not guilty, and were entirely innocent thereof, all of which action of said defendants, and their subordi-nate officers, constitutes a flagrant violation of Section 27 of Article I, of the Constitution of the United States, reading in

part as follows:

"Section 27.-The citizens shall have the right, in a peaceable manner, to assemble together for their common good";

and also constitutes a flagrant violation of Section 19 of Article I, of the Constitution of the state of Texas, known as the Bill of

Rights, reading in part as follows:

"Section 19. - No citizen of this state shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised except by the due course of the law of the land".

and said action of defendants is also in violation of Articles 528 and 529, of the Revised Civil Statutes of the state of Texas, guaran-teeing to members of trade unions the right to organize into associa-tions for their common good.

7. Complainants further say that they, members of said Union, and civic-minded people of the City of San Antonio and elsewhere, have appealed to the defendant, Owen W. Kilday, to desist from his unlawful action as aforesaid, explaining to him that he was without right or authority to make such arrests and file such charges against members of said Union guilty of no offense whatsoever. However, in response to such entreaties, he has repeatedly stated, both privately and publicly, that he would continue in his unlawful action, unless prevented by this Honorable Court.

8. Complainants say, that for the protection of their civil rights, guaranteed to them by the laws above referred to, and for relief against the oppressive, unlawful, vexatious, oppressive, unlawful, and harassing arrests and prosecutions, by the defendants and their subordinate police officers above alleged, they have no adequate, efficient, and complete remedy at law, and they will suffer, and are suffering, irreparable damage and injury, unless the injunctive relief herein prayed for be granted.

9. Complainants say that the members of said Union, commonly referred to as pecan shellers, have been so inhumanely exploited and cruelly underpaid, that their economic condition has become intolerable, so that they were forced to, and did lawfully call a strike by the members of said Union, and said strike has been carried on lawfully and peaceably; that their economic condition is so low, as to shock the conscience and sensibilities of the decent and civic minded people of the City of San Antonio, which economic condition has become a menace to the public health, welfare, and security of said community, especially so, in view of the fact that the members of said Union are engaged in the handling of food for human consumption, and because of their said deplorable economic condition, it is impossible for them to maintain any sort of decent standard of living, or to keep in any proper state of health, since they are habitually undernourished, and practically on the verge of starvation, they and their families.

10. Complaints further say that they are suing herein for themselves, individually, and in their official capacities, as afore-

7. Complainants further say that they, members of said Union, and civic-minded people of the City of San Antonio and elsewhere, have appealed to the defendant, Owen W. Kirby, to desist from his unlawful action as aforesaid, explaining to him that he was without right or authority to make such arrests and file such charges against members of said Union guilty of no offense whatsoever. However, in response to such entreaties, he has repeatedly stated, both privately and publicly, that he would continue in his unlawful action unless prevented by this Honorable Court.

8. Complainants say, that for the protection of their civil rights, guaranteed to them by the laws above referred to, and for relief against the oppressive, unlawful, vexatious, oppressive, unlawful, and harassing arrests and prosecutions, by the defendants and their subordinate police officers above alleged, they have no adequate, efficient, and complete remedy at law, and they will suffer, and are suffering, irreparable damage and injury, unless the injunctive relief herein prayed for be granted.

9. Complainants say that the members of said Union, commonly referred to as peon shufflers, have been so inhumanly exploited and cruelly undervalued, that their economic condition has become intolerable, so that they were forced to, and did lawfully call a strike by the members of said Union, and said strike has been carried on lawfully and peacefully; that their economic condition is so low, as to shock the conscience and sensibilities of the decent and civic minded people of the City of San Antonio, which economic condition has become a menace to the public health, welfare, and security of said community, especially so, in view of the fact that the members of said Union are engaged in the handling of food for human consumption, and because of their said deplorable economic condition, it is impossible for them to maintain any sort of decent standard of living, or to keep in any proper state of health, since they are habitually undernourished, and practically on the verge of starvation, they and their families.

10. Complainants further say that they are suing herein for themselves, individually, and in their official capacities, as aforesaid.

said, as well as for all the members of said Union, whose aim and purpose is to better the economic condition of the members of said Union, and so that each of them will be in a better position to sell their labor at a just and fair wage; that said wholesale arrests and threatened wholesale arrests have been committed and are being committed for the avowed purpose of intimidating petitioners and the members of said Unions and of said federation, in behalf of whom petitioners bringing this action, and preventing them from perfecting their organization, and from continuing to perform the functions thereof, as aforesaid; that if said unlawful and unwarranted arrests be permitted to continue, petitioners and the other members of said Union will be unable to carry on their Union business and activities, and will be placed in such position that they will be compelled to sell their labor at an unreasonable and unfair wage, wholly insufficient to support themselves and their families, and will result in compelling petitioners, and the other members of said Union, to accept starvation wages, thus causing petitioners and the members of said Union, serious and irreparable property damage, for which they have no adequate and efficient remedy at law, and therefore, they are entitled to the writ of injunction herein prayed for.

Wherefore, complainants pray that the defendants, Owen W. Kilday, Phil L. Wright, and Wm. Christoph, individually, and in their respective official capacities, be temporarily enjoined and restrained from arresting, molesting, harassing, and interfering with petitioners, and the other member of said Union, in their peaceful Union activities, and that they be further enjoined and restrained.

1. From arresting and charging the members of complainants' trades union organization, with the commission of the offenses above-mentioned, when such police officers know such members to be not guilty of the commission of such offenses, or when such police officers do not have good reason to believe them guilty;

- (2) From interfering with the lawful and peaceable picketing being carried on by the members of said union, now engaged in a lawfully called strike.

and as well as for all the members of said Union, whose aim and purpose is to better the economic condition of the members of said Union, and so that each of them will be in a better position to sell their labor at a just and fair wage; that said wholesale arrests and threatened wholesale arrests have been committed and are being committed for the avowed purpose of intimidating petitioners and the members of said Union and of said Federation, in behalf of whom petitioners bring this action, and preventing them from perfecting their organization, and from continuing to perform the functions thereof, as aforesaid; that if said unlawful and answer-anted arrests be permitted to continue, petitioners and the other members of said Union will be unable to carry on their Union business and activities, and will be placed in such position that they will be compelled to sell their labor at an unreasonable and unfair wage, wholly insufficient to support themselves and their families, and will result in compelling petitioners, and the other members of said Union, to accept starvation wages, thus causing petitioners and the members of said Union, serious and irreparable property damage, for which they have no adequate and efficient remedy at law, and therefore, they are entitled to the writ of injunction herein prayed for.

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Kilgus, Phil L. Wright, and Wm. Christoph, individually, and in their respective official capacities, be temporarily enjoined and restrained from arresting, molesting, harassing, and interfering with petitioners, and the other member of said Union, in their peace-ful Union activities, and that they be further enjoined and restrained from arresting and charging the members of complainants'

Trade Union organization, with the commission of the offenses above-mentioned, when such police officers know such members to be not guilty of the commission of such offenses, or when such police officers do not have good reason to believe them guilty;

(2) From interfering with the lawful and peaceable picket-

ing being carried on by the members of said union, now engaged in a lawfully called strike.

(3) From interfering in any way with the members of said Union unless they may be engaged in, or about to commit some unlawful act, and that the defendants be cited to appear and answer this petition, and that on final hearing, the temporary injunction herein prayed for, be made permanent, and for general, and equitable relief.

Attorneys for Plaintiffs.

STATE OF TEXAS |

COUNTY OF BEXAR |

Before me, the undersigned authority, on this day personally appeared Manuel Martinez, Pedro Ruiz, and Donald Henderson, who having been by me first duly sworn, on oath say:

That they are the petitioners named in the foregoing complaint; that they have carefully read the foregoing petition and that the facts therein stated are true and correct.

Sworn to and subscribed before me this the ____ day of February, 1938.

Notary Public, Bexar County, Texas.

(3) From interfering in any way with the members of said Union unless they may be engaged in, or about to commit some unlawful act, and that the defendants be cited to appear and answer this petition, and that on final hearing, the temporary injunction herein prayed for, be made permanent, and for general, and equitable relief.

Attorneys for Plaintiffs.

STATE OF TEXAS |
COUNTY OF BEXAR |

Before me, the undersigned authority, on this day personally appeared Manuel Martinez, Pedro Ruiz, and Donald Henderson, who having been by me first duly sworn, on oath say: That they are the petitioners named in the foregoing complaint; that they have carefully read the foregoing petition and that the facts therein stated are true and correct.

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February, 1938.

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