

**Communications
Workers of America**
District 3
AFL-CIO

Alabama, Florida, Georgia
Kentucky, Louisiana, Mississippi
North Carolina, South Carolina,
Tennessee, Puerto Rico

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January 22, 2013

TO: All AT&T Southeast - CWA Local Presidents & District 3 Staff

FROM: Thelma Dunlap
Administrative Director

RE: Expedited Arbitration Award
John Born/Termination
Arbitration #B3-11-048 / Grievance # B10066-3805
Knoxville, TN
Union Won

Attached is a copy of the Synopsis from Isa Shabazz, CWA Representative.

TD/bcc
OPEIU 2/AFL-CIO

Attachment

cc: Judith R. Dennis, Vice President
Donald A. LaRotonda, Assistant to the Vice President
Mary O'Melveny, General Counsel
John L. Quinn, District 3 Counsel





COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO
DISTRICT 3
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December 3, 2012

To: Thelma Dunlap, Administrative Director

From: Isa Shabazz, CWA Representative

Subject: Expedited Arbitration Award
Grievant: John Born – Termination
Grievance B10 066-3805
Arbitration Case B3-11-048
Union Won

John Born, Grievant, was a Service Technician employed at BellSouth Telecommunications, Inc., now currently called AT&T Southeast for 12 years at the time of the grievance. He was terminated for alleged continued Violation of Company Safety Practices. The Union argued that the Company failed its heavy burden of proving it had just cause to discharge John Born.

Mr. Born's work performance has been rated by his supervisor on a regular base as Satisfactory or More Than Satisfactory. In July 2007, he received a Warning Entry for getting a ticket after he ran a red light while driving a Company vehicle. A year later, in July 2008, he was suspended for one day for working aloft without proper safety equipment. Eighteen months later, in December 2009, Mr. Born was suspended for three days for allegedly talking on his cell phone as he drove into the Work Center.

The discharge of Mr. Born was precipitated by Mr. Born's involvement in a motor vehicle accident while driving a Company vehicle and not reporting it "immediately". On Friday, July 9, 2010, Mr. Born was stopped behind a car that was making a left turn in heavy traffic when he was rear-ended by a Lincoln Navigator SUV. Both Mr. Born and the driver got out of their vehicles to assess the damage and concluded they were ok, and there was only damage to the Company vehicle because the Navigator had tow hooks in the front which dented the Company vehicle. The driver of the SUV got back in her vehicle and instead of pulling over to exchange information, she continued to drive off without even giving her name. Mr. Born proceeded to the Work Center as it was the close of the day, and did not report the accident but only turned in his time report and went home.

The next morning (Saturday), he told his Steward about the accident that occurred the night before, and the Steward advised him to notify the supervisor immediately. A report was filed the following Monday, and Mr. Born was allowed to continue driving his Company vehicle for and additional six weeks before being terminated.

The Union argued and the arbitrator agreed that:

- 1) Mr. Born was not a threat to himself or others on the road because he was allowed to drive his Company vehicle an additional six weeks before being terminated.
- 2) Mr. Born was not at fault for the accident.
- 3) The delay of not reporting the accident did not put the Company in any further jeopardy or at a greater safety risk.
- 4) The penalty of Termination for the offense was too excessive.

For these reasons (and others), the arbitrator sustained the grievance and ruled that the Company did not have just cause to terminate the employment of John Born.

IS/bd