

Defeating the Bosses' Counterassault at C.W. Mining

by Alyson Kennedy, June 15, 2006

The following report was presented July 15, 2006, to some 450 delegates and other participants in the Socialist Workers Party convention and international socialist conference held in Oberlin, Ohio. Alyson Kennedy worked at the Co-Op mine from February 2003 until her firing for union-organizing activity by C.W. Mining in December 2004. Having first joined the United Mine Workers of America (UMWA) in 1981 and worked in coal mines in West Virginia and Alabama, Kennedy was a leading militant in the Co-Op battle. Along with other Co-Op miners reaching out for solidarity for the fight and explaining its accomplishments, Kennedy spoke to unions and other organizations in Utah, Arizona, New Mexico, Colorado, Wyoming, California, Washington, Vancouver, New Zealand, and elsewhere across the United States and around the world.

On May 1, a federal judge in Salt Lake City issued a written decision that shattered a harassment lawsuit filed almost two years ago by C.W. Mining, the owner of the Co-Op mine and the Company union at the mine. The lawsuit was filed in September 2004 by the mine bosses following a ten-month strike by majority Mexican immigrant coal miners who were waging a battle to get the United Mine Workers Union organized to change the abusive conditions at the mine. We began this fight in the Spring and Summer of 2003 and on September 22, 2003, we were all fired from our jobs. Picket lines were set up on October 3.

After a ten month strike that had widespread support especially in this coal mining region of central Utah, the miners forced the company to agree to an NLRB settlement in July 2004 that won reinstatement of all the miners to their jobs and the right to have a union election.

The lawsuit was originally filed against 120 organizations and individuals who had supported the miners and 16 of the miners – many of who were central leaders of this battle. It was filed by the mine owners because they couldn't defeat the miners at the picket line. So the company shifted the fight to the courts.

The main charge in the suit was defamation. The miners had told lies, they claimed, about the mining company and their company union and ruined their reputation causing them economic damage. It was an intimidation lawsuit and had a dampening impact on the support and the newspaper coverage we received after that. An amended complaint was filed in December 2004 right before the union election – a lot of the defendants were dropped – but the Co-Op miners, the UMWA, the *Militant*, the *Salt Lake Tribune*, and the *Deseret Morning News* and Utah Jobs for Justice. It was in this complaint that the company charged that Bill

Estrada, one of the central leaders of the strike, was an “agent of the UMWA” and that he had told the miners they had been fired and that is what led to the walkout.

And just a little over a month ago, all of the charges against the 16 Co-Op miners were dismissed and an earlier decision to dismiss the case against the *Salt Lake Tribune* and the *Deseret Morning News* was issued in writing.

I just want to read what the decision said about why the all of the charges were dismissed against the miners.

This section is called “Section III. Individual Miners” :

Plaintiffs fail to plead facts from which a reasonable person could infer malice on the part of...the “Defendant Miners”. Plaintiffs cite a litany of statements made by Defendant Miners during the course of the labor dispute. Although these statements express the Defendant Miners’ opinion that they were being treated unfairly, this does not rise to malice as required under the law. Laborers are entitled to their opinions. They are entitled to express those opinions, whether in the midst of a labor dispute or not. Plaintiffs’ allegations against the Defendant Miners seem to be nothing more than an attempt to intimidate their employees and quell honest discussion concerning labor issues. Their claims of defamation against the individual miners are specious and disingenuous. Because plaintiffs fail to allege malice in the Defendant Miners’ comments, they have failed to state a claim for defamation and those claims must be dismissed.

The decision also threw out 6 out of 7 of the charges against the UMWA, the *Militant* and Jobs with Justice: (1) racketeering and immigration fraud, (2) unfair labor practices, (3) invasion of privacy, (4) intentional interference with economic relations, (5) negligence, (6) civil conspiracy

Their strategy to defeat the miners using the courts was in very bad shape. They were left with a weak slander case against the *Militant*, the UMWA and Utah Jobs with Justice and a strongly worded decision on dismissing the miners.

This decision was issued at the same time the NLRB was preparing to hold a hearing on the final appeal by the Co-op mine against a determination that said the miners had been fired illegally 8 days before the union election. This determination was made on December 2005 – one year after the union election.

The decision on the lawsuit combined with the NLRB determination that we had been fired once again for union activity was very damaging to the company. And just a few weeks later they agreed to drop the entire lawsuit and reach a

settlement with the Co-Op miners and the UMWA. They decided that settling was in their interests. They want to get their business back in order.

Charles Reynolds, the mine manager, told the May 16 *Price Sun Advocate* that the settlement “does close the matter and allow Co-Op to move forward with its business.”

The UMWA agreed to drop its unfair labor charges against the company and the company agreed to give back pay to six workers the NLRB said were eligible.

We didn’t give up anything in reaching this agreement. When it came down to it only one miner could go back to work. Didn’t want a UMWA local in name only.

Nothing in this agreement prevents the UMWA backers from organizing again at this mine. If a majority of workers at the mine sign cards tomorrow or later the whole organizing fight can start again.

During the last month there have been a lot of meetings of former Co-Op miners. The largest was in front of a miner’s trailer in Huntington, Utah. This is where most of the miners who were part of the strike live. This is a town of about 1,000 and the Co-Op mine is about 20 minutes from here.

This was a typical meeting. As we were waiting for everyone to arrive there was a lot of informal discussion. This meeting happened to be right before May 1 so everyone was talking about what was on the news about the big marches by immigrant workers that everyone was looking forward to and many stories from the 2-1/2 year battle were told.

Jesus Salazar, who is working in one of 9 non union mines in this area, said the miners that he works with ask him about the conditions at the Co-op mine. He says they can’t believe it when he tells them that the miners worked for \$5.25 an hour. He said that a Mexican who used to work at Co-Op has been bad mouthing the strike saying the company won’t hire any Mexicans. Another miner said so what – we now all have jobs – so what is the problem and emphasized that he was very proud of what had been accomplished.

When we decided to stand up to the abusive conditions at the mine we gained confidence everytime we did this. We had been discussing among ourselves for a number of months in the Spring and Summer of 2003 about doing something about this. One of the miners got a hold of the company union contract and was showing it to people and saying that this union is no good – we need something different.

This same miner was also telling people about the union magazine he had got outside of the mine – he was talking about *Perspectiva Mundial*.

In August 2003, we decided to have a meeting and get everyone together to talk about what to do. The bosses found out about this – started spreading rumors that they would bring the immigration police, etc. That's when we made the first contact with the UMWA. Called the office in Denver and they put us in contact with a UMWA organizer in Price. Nine of us went to meet with him – He said we could have the meeting there. About 60 miners showed up. It was at this meeting that we decided to get the UMWA organized at the mine. The miners who went back to Huntington after the meeting saw the bosses at the old place waiting for the meeting to start.

Then the bosses began cornering miners and questioning. One worker was suspended in the outside shop – wrote on his slip that he had been asking for too many raises. They suspended Juan Salazar. Got his job back when two crews refused to go into the mine until he was put back to work.

Three days later they went after Bill Estrada. When Bill got to work, the bosses sent him home with 3 days with intent to discharge. He told his crew that we would get together after work and talk about what to do. Entire mine went to the office and demanded that Bill had to be put back to work. Company called the sheriff and the miners had called Bill. Bosses fired us and ordered off the property. On October 3 began picketing the mine. Organized committees to organize the strike – the immediate necessities committee, the picket line maintenance committee, outreach and a food distribution committee.

Picket lines were set up in 3 shifts—24 hours a day. Through outreach work made links with unions throughout the U.S. and internationally and developed strong ties with many UMWA locals in the West. Four miners traveled to San Francisco and spoke before local unions. It was there that we met Local 10 from the International Longshore and Warehouse Union. Invited to their union meeting. After we spoke to the meeting a union member came up to the table and asked us what did the local pass – he wanted to know if they voted to send the drill team to Huntington. We said we didn't know – and he walked right up to the secretary and asked to see the minutes. Then he came back and told us the drill team is coming out.

17 members of the ILWU Local 10 drill team came for a rally we organized at the local junior high school in February 2004. For this rally instead of organizing to have everyone come to picket line we decided to organize a car caravan by the picket line. The mistake we made in not organizing to have a picket line from the beginning was an example of a step back we made. The strike was never a straight line – always we would take a few steps forward then a step back or one step forward and a few steps back.

In the months leading up to winning our jobs back in July 2004 and for a period of time after the union election in December 2004, the strength of this fight and how it was impacting working people in the region had changed the possibilities for building the union in the region and organizing broader labor action that was going to be needed to win a union local at the Co-Op mine.

Examples that showed this:

1. Followed coal trucks to power plant in Helper, Utah. Talked to union there about this. Never able to bring this about – a picket line at the power plant.
2. Some railworkers began talking to the Co-Op miners who had picketing at the coal loadout. They told us about what their union had done to support other UMWA strikes – not hauling struck coal.
3. Non-union truck coal haulers began getting union cards signed.
4. Impact the fight was having on the non union miners. Would visit picket line. Tried at different times to reach out to these mines.

Extending the fight in the region to build the UMWA was possible but what was required was some combination of action by the organized labor movement, the UMWA and vanguard workers towards using the collective power of workers in the region to bring the necessary pressure to win union recognition. But because broad labor action wasn't brought to bear in the fight against the company the bosses were able to succeed in shifting the field of battle into the courts and into further NLRB proceedings.

Some of what I was just describing was developing when we were all back to work in the months leading up to the union election. Co-op was preparing all along to prevent a union local at Co-Op. We were working 12 ½ hour shifts facing constant harassment by the bosses. One thing the bosses would do is download the Militant newspaper every week and badger miners about what they claimed were lies they were telling the press. 2 ½ months after we went back to work – they filed the lawsuit – 3 days later the first strike leader was fired – Celso Panduro.

Also disagreements the central leaders of the strike miners had with the UMWA over what to do during this time were sharper. The UMWA thought that exposing the coyote operation of Co-op and the fact that the Kingston family, the owners of the mine, was a polygamous sect would be the way to win this.

But contradictory – (1) we were winning over the line crossers. (2) On November 18 won ruling that the family members of the bosses would not be able to vote in the union election. 4 days after this – Co-Op gave out letters to all of the Mexican miners that that they were shocked to find out that they do not have

proper work documents and they have until December 9 to get them or they are fired.

On December 2 and 7 two more strike leaders were fired – myself and Ricardo Chavez and on December 9 all of the Mexican immigrant miners who supported the UMWA were fired – 8 days before the union election. At the same time four miners were given the summons to the lawsuit. Following the union election two more miners – Bill Estrada and Guillermo Hernandez were fired.

In July 2004 when we won our jobs back – the company did not play the immigration card – but in December when the winning the UMWA local at the mine was real they went after the miners on this basis. There was no way the miners on their own could prevent this - the struggle needed to be extended – more forces had to be pulled into the fight. Pressure had to be brought to bear to either stop the mine bosses from firing everyone before the union election and when it happened being prepared to wage a fight with broader labor action to force that could get everyone rehired.

This paragraph from the document “Their Transformation and Ours” that you can find in *New International No. 12* describes what we faced and what faces more and more workers who will decide to fight:

Coming after a brutal, decades-long offensive by hundreds of thousands of individual employers, the sea change in working-class politics has been punctuated by scattered pockets of workers trying to organize unions effective enough to defend themselves. These rank and file militants are seeking to use union power. The transformation of this atomized but ongoing resistance into a broader fighting vanguard of the labor movement will not begin solely by worker militants learning from each other’s struggles, emulating them and reaching out to one another in solidarity; it will gain ground as militants start to recognize that what they achieve through any strike or organizing drive can be defended and consolidated only by actively extending union power to other workplaces in their industry and in the their region.

The stakes for the labor movement are high. The fight for legalization of immigrant workers is a life and death question for the labor movement.

The bosses at Co-Op more than anything hated it when we had begun to organize to fight safety. A week before Co-Op did the mass firing, we organized a press conference at the local MSHA office reporting serious safety violations at the

mine. A few days later 2/3 of the 36 miners eligible to vote in the union election met at the UMWA hall to get a safety committee organized. The next day the bosses had a meeting and said “We know you formed a safety committee – and said you could be disciplined including getting fired if you reported a safety problem to MSHA before you went to the company with it. Right after this they gave Bill Estrada a disciplinary note and 2 points and began to build up a paper trail of points that lead to his firing.

One of the central issues that lead us to fight to get a UMWA local at the mine was the question of safety. This is the only way safety will be enforced – through exercising union power at the point of production.

There are 33 miners who have died in coal mining so far this year – 7 recently.

This is an international question – with the explosion in Mexico and the never ending mining disasters in China. This disasters won’t end or even slow down until the miners who work in the mines start to unionize and take control of safety.

Teams of *Militant* reporters have been in Harlan County. Response to the *Militant*. In Kentucky there are 300 miners who are in the UMWA out of 14,000.

When the bosses at Co-Op shifted the battle into the courts, the miners, the UMWA and the support stayed strong. This was decisive to getting this lawsuit thrown out and the agreement reached. All of us who participated in this became changed people – many of the central leaders of the Co-Op fight who are today only in 20’s and others – many of who are in this room - who were part of this battle have much more ahead of us.