

Immigration Raids at Smithfield How an ICE Enforcement Action Boosted Union Organizing And the Employment of American Workers

By Jerry Kammer

Summary

In January 2007, Immigration and Customs Enforcement (ICE) agents raided the Smithfield pork plant in Tar Heel, N.C. Seven months later, ICE agents made more arrests at workers' homes in surrounding areas. Other illegal workers, fearing they might be detained, left the plant on their own.

If they are concerned about working-class Americans, partisans on either side of the immigration debate can find something to support their positions in the events at Tar Heel.

On the one hand, those who favor using law enforcement to force illegal immigrants out of jobs can point to the fact that enforcement at Tar Heel created job openings for native-born Americans and legal immigrants. Had the illegals remained in the jobs, they would not have been available to American workers. One can also note that enforcement turned out to be a key factor in the December 2008 vote to organize the plant under the United Food and Commercial Workers Union.

On the other hand, those who favor amnesty for illegal immigrants can note that Smithfield management long threatened selective immigration enforcement in an effort to pressure illegal immigrant workers to vote against the union.

Smithfield's ability to intimidate workers prior to the raids demonstrates the unsatisfactory nature of the current state of immigration enforcement. The federal government's failure to implement a mandatory worksite verification program, coupled with spotty worksite monitoring by immigration authorities, creates an incentive to employ illegal workers and then use the threat of enforcement to intimidate them. Mandatory electronic verification of new hires, coupled with consistent and sustained follow-up by enforcement authorities would rectify this situation.

Introduction

The Smithfield Plant in Tar Heel, N.C., is the largest hog processing facility in the world. It slaughters up to 32,000 hogs a day, slices them into a variety of cuts, and sends them to market.

In December 2008, workers at the plant voted to be represented by the United Food and Commercial Workers Union. The UFCW victory, by a vote of 2,041 to 1,879, climaxed a long and bitter battle between the union and the company, whose products are labeled with such names as John Morrell, Patrick Cudahy, and Gwaltney.

The UFCW called its Tar Heel effort "the largest manufacturing organizing drive by any union in over a decade."¹ Its victory had national significance for the labor movement because North Carolina has the nation's lowest rate of union membership and a long history of resistance to labor organizers.

The union worked especially hard to rally Hispanic workers, whose numbers had risen steadily throughout the 1990s, becoming the majority at the plant by 2000. The UFCW dispatched Spanish-speaking organizers to work full time at Tar Heel, and it helped Hispanic workers organize a protest in 2006 after Smithfield fired several dozen workers who were unable to demonstrate legal presence in the United States.

But ironically the most decisive factor in the union's victory may have been immigration enforcement raids at Tar Heel in 2007. The raids' immediate result, the arrest of several dozen workers, was followed by the departure of hundreds of others who feared arrest on charges of violating immigration laws.

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Their exodus led to an abrupt switch in the plant's demographics. By the time of the vote on UFCW representation, the majority of workers were once again native-born black Americans, as they had been in the years immediately after the plant opened in 1992. The Charlotte *Observer* noted that the "raids may have finally sealed the union's victory.... The 2007 raids purged the plant of illegal Hispanic workers, and left behind a majority of native workers more likely to support unionization."²

This report examines the developments at Tar Heel and concludes that the legacy of ICE's enforcement of immigration laws includes not only the union victory, but also a decision by Smithfield to more closely examine documents workers use to verify their legal status.

Moreover, the raids, coming after years of lax enforcement of immigration laws, also opened up more jobs at the plant for authorized workers. At a time when the national recession has compounded years of job losses in North Carolina's textile and furniture industries, the opportunity to work at Smithfield has provided a welcome boost to authorized workers, both native-born and immigrant.

Background

Smithfield built the plant at Tar Heel because the location gave the company easy access to the hog farms that have proliferated in eastern North Carolina and to Interstate 95, the East Coast's principal transportation artery.

The UFCW began organizing efforts shortly after the plant opened. In both 1994 and 1997 the union lost elections among the Smithfield workers. But organizers challenged those results, alleging that the company had unlawfully bullied and intimidated workers to keep the union out.

In 2000, an administrative law judge for the National Labor Relations Board set aside the 1997 election results, writing in a 436-page opinion that Smithfield had committed "egregious and pervasive" violations of labor law.³ The judge found that some of the company's threats were aimed at Hispanic workers, who were warned that if the union won, it would report them to immigration authorities. The judge also found that several company managers and lawyers had lied under oath in the case.

Smithfield contested the ruling, launching an appeal process that would drag out for more than five years. In the meantime a former employee provided dramatic and damning testimony to a U.S. Senate committee about the company's efforts to thwart the UFCW.

"I'm here to tell you that Smithfield Foods ordered me to fire employees who supported the union and that the company told me it was either my job or theirs," Sherri Buffkin told the U.S. Senate Health, Education, Labor, and Pensions Committee in 2002. "I'm here because Smithfield Foods asked me to lie on an affidavit and made me choose between my job and telling the truth. I'm here today to tell you how Smithfield Foods sought out and punished employees because they were union supporters, and that the company remained true to its word that it would stop at nothing to keep the union out."⁴

As the union awaited a ruling from the appeals court, it launched a sweeping public campaign to pressure the company to accept its organizing efforts. It won support from Democratic presidential hopeful John Edwards and from such religious and civil rights leaders as the Rev. Jesse Jackson and the Rev. Al Sharpton. Celebrities such as actors Danny Glover and Susan Sarandon lent their names to the effort.

The multi-pronged campaign included pickets at supermarkets demanding that Smithfield products be removed from shelves. It enlisted the support of several governing bodies, including the New York City Council, where a dozen members sponsored a resolution calling for the city to stop purchases from the Tar Heel plant "until the company ends all forms of abuse, intimidation, and violence against its workers."⁵

In a tactic that received considerable media attention, the union also picketed the public appearances of Food Network celebrity chef Paula Deen, who had been hired to promote Smithfield products. One North Carolina business publication reported that union activists had "flooded her Web site with e-mails and her Savannah, Ga., restaurant with phone calls."⁶ Deen, dubbed "the queen of butter-drenched Southern cooking" by *The New York Times*, found herself in the middle of a labor feud drenched in bitterness.⁷

A Smithfield attorney blasted the union for conducting "economic warfare," a charge the company pursued with a federal racketeering suit. The suit alleged the union was attempting to "extort Smithfield's voluntary recognition of the UFCW and Local 400." It included a claim that illustrated the union's effectiveness in targeting Paula Deen. The company said the UFCW had "deprived Smithfield of an incomparable marketing opportunity" by persuading the Oprah Winfrey show to cancel an invitation for Deen to appear and "promote Smithfield's products before millions of viewers."⁸

In 2006, the Smithfield appeal failed, as the U.S. Court of Appeals for the District of Columbia found that the company had engaged in "intense and widespread

coercion” of the Tar Heel workers.⁹ In 2008, the company agreed to drop its racketeering lawsuit as part of a deal that saw the union suspend its campaign to embarrass the company. The two sides also agreed to conditions for the vote that was held at the end of 2008.

Demographic Shift

The 1990s transformation of the Tar Heel plant to a majority Hispanic workforce was part of North Carolina’s sweeping demographic change during that decade. No state had larger growth in its Hispanic population in the 1990s than North Carolina — a 394 percent jump, from 76,726 to 378,963. In 2008, the state’s Hispanic population was estimated at 601,000 and the Pew Hispanic Center estimated the state’s illegal immigrant population at 300,000, the eighth-largest figure in the country.¹⁰

Many newcomers found work at Smithfield, gradually building a Hispanic majority at the plant. “They were good people, hard workers,” said Wade Baker, an African American who worked at the plant from 1994 to 2002.

Baker said there was a widespread belief among Smithfield employees that the company’s hiring decisions were part of its anti-union strategy. “They started hiring Mexicans to help beat the union,” Baker said. “They would fire blacks for penny-ante things because they knew there were lots of Mexicans ready to come to work. And they knew they could control the Mexicans and make them afraid to vote for the union.”¹¹

Across the United States there was little immigration enforcement in the early 2000s, as the Hispanic workforce at Smithfield and throughout North Carolina continued its rapid growth. In 2000, *New York Times* reporter Louis Uchitelle reported that “the more tolerant INS policy may be inducing more workers to immigrate, particularly from Mexico, because — once they manage to get here — they face little risk in taking a job.” Uchitelle noted that such an expansion of the labor force would reduce pressure on employers to raise wages.¹²

Concerns about illegal immigration grew steadily in the first decade of the new millennium. In 2003, the *Raleigh News & Observer* reported on a poll showing that about three quarters of the state’s residents thought illegal immigrants “should not be allowed to remain, even if they are otherwise law-abiding.”¹³ As the Woodrow Wilson International Center noted in a 2008 report, “The Latino workers who had originally been welcomed as an inexpensive and reliable source of labor for a booming economy began to be perceived as

an emerging problem” because of the strains they put on social service agencies.¹⁴

“Americans think that we come here to take away what belongs to them, but we just want decent jobs,” Mexican immigrant Jose Martinez told the *Raleigh* newspaper. Ironically, the story reported that Martinez had quit his job at an unnamed hog slaughtering plant “because of what he described as horrible working conditions.” Martinez was earning his living doing odd jobs in Lumberton, home to many workers at Smithfield’s Tar Heel plant.¹⁵

2006 Enforcement

In 2006, ICE launched a crackdown at meat processing plants across the country. Most media attention focused on raids at plants operated by Swift & Co. in six states.¹⁶ Those raids resulted not only in the arrest of 1,300 Swift workers but also in the departure of hundreds of others who feared arrest on immigration charges.

ICE agents also turned their attention to the Tar Heel Plant, where Smithfield agreed to strengthen its review of employee documents. When the company fired 21 workers in late 2006, other Hispanic employees walked out in a coordinated protest that the UFCW helped organize. Responding to the walkout, Smithfield agreed to give the workers 60 days to demonstrate their legal status.

But in January, ICE agents raided the Tar Heel plant. Seven months later, agents swept into nearby communities to make more arrests at workers’ homes. As a result of the raids — and the widespread fear that more Smithfield workers would be targeted by immigration authorities — the Hispanic workforce at the plant dropped significantly. The *Fayetteville Observer* reported that by the time of the 2008 election won by the union, the Hispanic workforce had dropped by about 1,000 workers, down to 26 percent of the workforce.¹⁷

The *Observer* also noted how the raids affected the UFCW’s organizing drive. “The union took notice of the changing face of Smithfield and reorganized accordingly,” it reported. “Staffing levels in its Lumberton office, once mostly Spanish-speaking, turned largely to black people.”¹⁸

Union supporters claimed that in Tar Heel, Smithfield sought to alienate Hispanic workers from the union. Mattie Fulcher, a black Smithfield employee, said plant supervisors “scared a lot of them, telling them that they could be deported if they voted for a union.”¹⁹ Other observers said the ICE enforcement action made many immigrants shy away from the union because they wanted to keep a low profile in the community.

Unions and Immigration

For decades the U.S. labor movement resisted illegal immigration, which it saw as a source of unfair competition and downward pressure on wages. But in 2000, when the national economy was strong, jobs were plentiful, and immigration enforcement was weak, the executive council of the AFL-CIO endorsed amnesty for illegal immigrants. That move was part of labor's effort to reverse decades of declining membership.

"We don't care about green cards," the head of the United Food and Commercial Workers told *Time* magazine, in a reference to the visas that provide permanent resident status. "We care about union cards."¹ The head of the hotel employees union was equally straightforward about illegal immigrants in the workplace, observing, "Whatever the intentions of our immigration laws might have been, they don't work."²

The labor movement's turnabout on amnesty followed blatant attempts by some employers to punish illegal workers who supported union organizing drives. Perhaps the most infamous example of the tactic involved a Holiday Inn Express in Minneapolis and housekeepers who helped lead a successful vote for representation by the Hotel Employees and Restaurant Employees union. After receiving a tip from hotel management, immigration agents arrested the workers. The union stepped in to represent them, helping them win not only a \$72,000 settlement from the hotel, but also the right for seven of the eight to stay in the United States.³ That victory helped galvanize broad-based union support for illegal immigrants.

¹ "Illegal but Fighting for Rights," *Time* magazine, January 22, 2001.

² Laura Parker, "Hispanic Immigrants Put Muscle Back into Unions," *USA Today*, August 15, 2001.

³ Kimberly Hayes Taylor, "Illegal Workers Get to Stay in U.S." Minneapolis *Star Tribune*, April 26, 2000.

Still others cited the low educational level of many of the immigrant workers, which further isolated them. As the Wilson Center noted in its report on immigration to North Carolina: "A considerable portion of recent Latino immigrants have little formal education and are functionally illiterate, so when English language materials are translated into Spanish, these materials still may not be understood."²⁰

The vote in the December 2008 election was not tallied by race. The factors that influenced the vote were many and varied. Some observers claimed that the national economic downturn made some workers reluctant to risk antagonizing the company with a union. Others said the presidential election victory of union supporter Barack Obama had made black workers more assertive than they otherwise might have been.

But the North Carolina press reported on a broad consensus that the demographic shakeup in the Tar Heel workforce produced by the immigration raids was a major factor in the UFCW victory. While the *Charlotte Observer* reported that the raids "may have finally sealed the union's victory," the Fayetteville *Observer* reported

observations that "the new black majority proved to be the difference."²¹

A visit to the Smithfield plant showed that the raids also made a big difference in the job prospects for the African Americans who, along with a few whites, filled the company's employment office. Carolyn Elliot, who had lost her job due to a business slowdown at a Fayetteville cafeteria, was finishing her paperwork before beginning work at the plant. David Thompson, a 20-year-old who had been laid off from an \$8.50-an-hour job at the Red Lobster in Fayetteville, said he was looking forward to making \$4 an hour more at Smithfield. "That's pretty good money around here," he said.

Meanwhile, two Mexican maintenance workers for a company that contracted to tend the grounds outside the plant, said they would prefer to leave that \$6.50 hourly wage for a job at Smithfield. But they couldn't, they said, because the company was insisting on proper documentation. One was from Chiapas and the other from Veracruz, two states in Southern Mexico where emigration boomed in the 1990s. The two men said they expected to be moving on soon, looking for better pay elsewhere.

End Notes

- ¹ June 20 PR Newswire, UFCW news release. See also, page 2 of Memorandum in Opposition to Defendant's Motion to Dismiss in Civil Action No. 3:07CV641, United States District Court for the Eastern District of Virginia, Richmond Division. Smithfield Foods, Inc., and Smithfield Packing Company v. United Food and Commercial Workers International Union.
- ² Kristin Collins, "Raids Helped Union at N.C. Pork Plant; Sweeps Removed Latinos Opposed to Organizing," *Charlotte Observer*, January 2, 2009.
- ³ Kevin Sack, "Judge Finds Labor Law Broken at Meat-Packing Plant," *The New York Times*, January 4, 2001.
- ⁴ Statement of Sherri Bufkin, former supervisor, Smithfield Packing Company, Tar Heel; hearing of the U.S. Senate Health, Education, Labor, and Pensions Committee, June 20, 2002.
- ⁵ Adam Liptak, "A Corporate View of Mafia Tactics: Protesting, Lobbying and Citing Upton Sinclair," *The New York Times*, February 5, 2008.
- ⁶ Frank Maley, "The Meat of the Matter," *Business North Carolina*, April 2008.
- ⁷ Marian Burros, "Union, in Organizing Fight, Tangles with Celebrity Cook," *The New York Times*, April 20, 2007.
- ⁸ *The New York Times*, February 5, 2008, op. cit.
- ⁹ Steven Greenhouse, "Court Rules Pork Processor Broke Law in Fighting Union," *The New York Times*, May 10, 2006.
- ¹⁰ "Charlotte: A Welcome Denied," Woodrow Wilson International Center for Scholars, 2008, Page 1.
- ¹¹ Author interview with Wade Baker.
- ¹² Louis Uchitelle, "INS is Looking the Other Way as Illegal Immigrants Fill Jobs," *The New York Times*, March 9, 2000.
- ¹³ Michael Easterbrook, "Welcome Mat not Out for State's Immigrants, Poll Shows," *Raleigh News & Observer*, November 24, 2003.
- ¹⁴ Woodrow Wilson International Center for Scholars, 2008, op.cit.
- ¹⁵ *Raleigh News & Observer*, November 24, 2003, op. cit.
- ¹⁶ See Jerry Kammer, "The 2006 Swift Raids: Assessing the Impact of Immigration Enforcement Actions at Six Facilities," Center for Immigration Studies *Background*, March 2009, <http://www.cis.org/2006SwiftRaids>.
- ¹⁷ John Ramsey and Sarah A. Reid, "Race and the Union," *Fayetteville Observer*, December 2, 2008.
- ¹⁸ *Ibid.*
- ¹⁹ Kristin Collins, "Did Raids Help Union at North Carolina Pork Plant?" *Charlotte Observer*, January 2, 2009.
- ²⁰ Woodrow Wilson International Center for Scholars, 2008, op.cit
- ²¹ *Fayetteville Observer*, December 21, 2008, op.cit.

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Backgrounder

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