

CA - General

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Transcript of Motion proceedings

pg. 13

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FILED

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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY
Docket No. C.4122-73

APR 11 1975

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DAVID D. FURMAN, J.S.C.
URBAN LEAGUE OF GREATER NEW BRUNSWICK,
et als.,

Plaintiffs,

vs.

THE MAYOR AND COUNCIL OF THE BOROUGH
OF CARTERET, et als.,

Defendants.

MOTION

73 APR 11 1975

New Brunswick, New Jersey
February 28, 1975

B E F O R E: Honorable David D. Furman, J.S.C.

APPEARANCES: Daniel A. Searing, Esq.,
For the Plaintiffs

Sanford Chernin, Esq., for South Plainfield
Lawrence Lener, Esq., for Highland Park
Richard Rozanski, for Woodbridge
Michael Richman, Esq., for South Brunswick
Christopher R. Wood, Esq., for South River
and Jamesburg
M. Roy Oak, Esq., for Piscataway
Joseph Burns, Esq., for North Brunswick
Martin Spritzer, Esq., for Metuchen
Bertram Busch, Esq., for East Brunswick
William C. Moran, Esq., for Cranbury
Guido Brigiani, for Spotswood
Dennis Cummins, Esq., for Dunellen
Louis Alfonso, Esq., for Madison Township

Stanley Grabon, C.S.R.

1 THE COURT: Urban League versus Carteret.

2 MR. CHERNIN: Your Honor, I would like to
3 dispose of one motion by consent. I thought that I
4 would announce that we have agreed to it. I have a
5 motion on behalf of the Borough of South Plainfield
6 pertaining to more specific answers to interroga-
7 tories and providing of the certification on the back
8 of it.

9 Counsel and I have conferred and we will sub-
10 mit a consent order to you covering that aspect of
11 this.

12 THE COURT: Thank you. We might have on the
13 record then the municipalities that are moving or
14 joining in the motion to make Perth Amboy and New
15 Brunswick parties. You are moving to make Perth
16 Amboy and New Brunswick parties?

17 MR. INGLESE: Yes, your Honor.

18 THE COURT: Now will the attorneys who have
19 made separate motions or are joining in the motions
20 please identify yourselves?

21 (The following attorneys respond.)

22 (Martin Spritzer, Metuchen. Sanford Chernin,
23 South Plainfield. Bertram Busch, East Brunswick.
24 Dennis Cummins, Dunellen. Guido Brigiani, the
25 Borough of Spotswood. Joseph Burns, the Township of

1 of North Brunswick. Richard Rosanski, Woodbridge.
2 Lawrence Lerner, Highland Park. Roy Oak, Piscataway.
3 Michael Richman, Township of South Brunswick.
4 Christopher Wood, South River.)

5 THE COURT: The only attorney in opposition
6 then is Mr. Searing?

7 MR. SEARING: Yes, sir.

8 THE COURT: All right. Who will be the
9 spokesman for them?

10 MR. INGLESE: I assume that I will at this
11 point, your Honor.

12 If it please the Court, this suit, of course,
13 was started by the plaintiffs as a class, and the
14 basis of the naming of one of the municipalities by
15 them was that they were seeking from the Court a
16 regional plan to ascertain in this plan whether or
17 not each of the municipalities would comply with it
18 or to order them to comply with that overall plan.

19 They have taken upon themselves and made a
20 total assumption that Perth Amboy and New Brunswick
21 have a sufficient or an excessive number of minority
22 groups and low income housing. So with that assump-
23 tion, they have eliminated them from it.

24 Your Honor is aware perhaps of the maps of
25 the County and has seen it on many occasions and is

1 very much aware that the initial County began in the
2 central core areas, New Brunswick and Perth Amboy,
3 the high density areas, and the suburbs are supposedly
4 all of those areas outside of Perth Amboy and New
5 Brunswick.

6 For the Court to make a valid determination
7 in this matter and for any expert to make a determin-
8 ation as to the needs of the region, it would be nec-
9 essary to take into consideration the different areas,
10 that is, Perth Amboy and New Brunswick.

11 Some of the areas of discovery as far as a
12 planner's concern is that he must analyze over all.
13 He may very well find that it might be in the best
14 interest of the minority, if we use that terminology,
15 that the low income housing should be located in
16 areas where they have access to mass transportation,
17 to areas where there would be stores that would be in
18 close proximity.

19 I'm sure that your Honor can take judicial
20 notice that in the suburban areas, the shopping areas
21 are generally set up in shopping centers that are
22 located out on highways. So that when the poor move
23 out into the outlying districts, they must have some
24 means of transportation, of getting to these various
25 areas, whereas they would be able to walk to these

1 areas.

2 I think that it even came out rather signifi-
3 cantly in depositions that we took yesterday of
4 Mrs. Cruz, which were not completed, but in her own
5 testimony she, too, has a need for mass transporta-
6 tion.

7 In finding out her lifestyle in Perth Amboy
8 it was indicative that the ability of two of the
9 oldest children to work , they were able to walk to
10 work in Perth Amboy and their ability to take a bus
11 over to South Amboy and use the roller skating rink
12 and many of the other facilities that are located
13 within the center city and services that were avail-
14 able to them which generally cost the person in the
15 suburban area money by virtue of getting transporta-
16 tion to and from those areas.

17 So that it is very, very important, I think,
18 to consider Perth Amboy and to consider New Brunswick
19 as part of this region, and they should be parties
20 to this suit.

21 I might also say that even another problem
22 might be created. Let us assume that your Honor
23 does order each of the municipalities to provide for
24 additional housing, for low income housing, and that
25 the people within the center core areas such as New

1 Brunswick and Perth Amboy would move out into these
2 outlying areas.

3 You now have abandoned cities. Both of these
4 communities would be very much interested in knowing
5 what the long range affect would be upon them.

6 They, too, would want to have consideration
7 as to what the Court might determine what affect a
8 regional plan, a plan that the Court might come up
9 with, if it does that, what affect it would have upon
10 their various communities.

11 I think that they are important parties and
12 very necessary parties in this suit by virtue of what
13 the--

14 THE COURT: Would you seek to make them
15 direct parties' defendants or third party defendants?

16 MR. INGLESE: I think that they should be
17 direct party defendants.

18 THE COURT: The plaintiff hasn't brought
19 any claim against them, really. It sounds more like
20 a third party defendant, that is, that these parties,
21 the direct defendants are needed in the case to pro-
22 vide full relief.

23 MR. INGLESE: Then I would consent to make
24 them third party defendants. I don't know about other
25 counsel representing the other municipalities that

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join in this, but as far as Monroe is concerned, we would join them as third party defendants.

THE COURT: All right. I would like to ask then if any other attorney for a municipality has any additional arguments to make or objections to joining Perth Amboy and New Brunswick if we do join them as third party defendants?

MR. LERNER: I have an argument to offer in support of Mr. Inglese's argument.

Taken from the depositions of Mrs. Cruz, was a very interesting comment where she indicated that it wasn't so much that the housing may or may not be provided within the town, but that it may not be located or concentrated in sections of the area.

So that in support of Mr. Inglese it might be that Perth Amboy, which according to the plaintiffs may have an over abundance of minority housing, it may be that the placement of the minority housing within the confines of the City of Perth Amboy or the placing of minority housing within the confines of the city-- that may also be subject to the review of the Court.

THE COURT: All right.

MR. CUMMINS: I think that it's not so much here a question of the plaintiffs seeking affirmative

1 relief against New Brunswick and Perth Amboy, as it
2 is the fact that the Court, if the Court is to effec-
3 tively rule on a county-wide basis, that for the
4 Court's ruling to be carried out, Perth Amboy and New
5 Brunswick should be parties to this suit.

6 THE COURT: All right. Mr. Searing?

7 MR. SEARING: Yes, sir. We continue our
8 objection to joining New Brunswick and Perth Amboy
9 either as true defendants or as third party defen-
10 dants for the reasons that we have covered when we
11 argued this motion last year.

12 THE COURT: All right. Although, from the
13 standpoint of an application to name Perth Amboy and
14 New Brunswick as third party defendants is out of
15 time, it seems to me as this case has developed, while
16 there's no direct claim by the plaintiff, the plain-
17 tiffs against Perth Amboy and New Brunswick, that
18 from the standpoint of all or several of the
19 municipalities there is an interest in developing
20 what share or what contribution those cities have
21 made and should make for providing low and moderate
22 income housing and to make possible a full develop-
23 ment of what the regional needs are and what a
24 regional plan should be.

25 Since the application is made out of time, I

1 would like to ask Mr. Inglese or other municipal
2 attorneys what your view would be of delay, if any,
3 because these matters are now included?

4 For example, right now when do you see that
5 or when do you foresee that discovery will be com-
6 pleted?

7 MR. INGLESE: At the rate that we are going,
8 your Honor, we haven't gotten through the first wit-
9 ness. We are scheduled again on March the 20th at
10 the rate of one and a third or less than a third. I
11 would say that perhaps two per three days appears at
12 the rate that we are going at, and all of counsel was
13 not present. I will say that discovery is going to
14 take well over a year.

15 We have just begun our discovery by virtue
16 of the questioning of Mrs. Cruz, and that will con-
17 tinue on the 20th. So that if Perth Amboy and New
18 Brunswick was to join in that discovery, they will
19 have the opportunity to question her on the 20th.

20 I don't see any detriment to them in that
21 regard. As far as the answering of the interroga-
22 tories are concerned, I don't see any problem there
23 because of the time element involved.

24 THE COURT: Mr. Searing, any projection as
25 to when discovery might be completed?

1 MR. SEARING: No, sir. We are making an effort
2 to move it along. I spoke to several counsel this
3 morning about setting up some additional dates so
4 that we could get the depositions of the plaintiffs
5 over with as soon as possible. We have been making
6 an effort to move the interrogatories along, which is
7 something else that I would like to bring up later.

8 It's very hard to project because it's very
9 dependent upon the time that the defendants take in
10 terms of questioning the plaintiffs.

11 THE COURT: Well, do you have any reason to
12 suppose that making Perth Amboy and New Brunswick
13 third party defendants would, itself, delay the final
14 disposition of this matter?

15 MR. SEARING: No, sir, I don't believe so.

16 THE COURT: All right. Then that motion will
17 be granted.

18 MR. INGLESE: As long as I'm here before you,
19 your Honor, there was an order presented to the Court.
20 There will be a written objection to that order, and
21 maybe it can be disposed of at this point.

22 The last motion day your Honor made certain
23 determinations in regards to class actions. There
24 is one portion missing from the order. I spoke with
25 Mr. Searing yesterday afternoon and he agreed with me.

1 I made a request that your Honor order notice be
2 given to the members of the class and you denied that,
3 and that's not provided for in the order, and I think
4 that it should be provided.

5 THE COURT: Notice to the members of the
6 class?

7 MR. INGLESE: Yes, your Honor. I made that
8 request and I think that Mr. Searing said he had the
9 transcript, and at least it is included in the trans-
10 cript and at least he advised me of that yesterday.

11 THE COURT: Well, I would have to see the
12 transcript. I believe that I concluded orally that I
13 thought it was too cumbersome and would not be en-
14 forced.

15 MR. INGLESE: Well, I specifically asked your
16 Honor if you would provide in the order that you are
17 denying the notice of the request for--

18 THE COURT: Well, that should be in the order.

19 MR. INGLESE: Thank you.

20 THE COURT: All right. Is there anything
21 else this morning in the Urban League case?

22 MR. SEARING: We had submitted an order to
23 strike the answers of four defendants for failure to
24 answer interrogatories, and at this time I want to
25 withdraw three of those from consideration. The

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Borough of Carteret and Woodbridge and Spotswood
have, since the submission of that order, responded.
That leaves only Madison Township, and I have not
had an opportunity to speak with Mr. Alfonso, who was
here earlier but I don't see him now. Perhaps the
signing of that could be delayed until I can contact
him.

THE COURT: All right. Thank you.

MR. CUMMINS: Your Honor, just one matter.
The order that Mr. Inglese made mention of, apparently
it has a date of January of 1975. What it doesn't
do is say that there was a -- that the motion to join
the County and the State as third party defendants
is also denied.

MR. SEARING: On Paragraph Three, Page Two
of the order it says that there's no basis to join
the County of Middlesex and the State of New Jersey
as third party defendants and those motions are
denied.

MR. CUMMINS: I'm sorry. I have another
order. I thought that all were included in the
single order. I'm sorry.

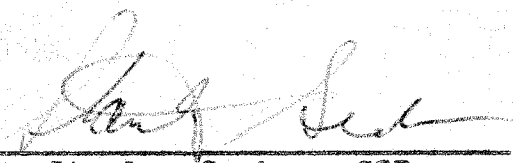
THE COURT: All right. Thank you.

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CERTIFICATION

I, STANLEY GRABON, a Certified Shorthand Reporter of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of proceedings.



Stanley Grabon, CSR
Official Court Reporter

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