

38 Pa.Cmwlth. 475
Commonwealth Court of Pennsylvania.

PENNSYLVANIA HUMAN RELATIONS
COMMISSION, Appellee,
v.
BOARD OF PUBLIC EDUCATION OF the
SCHOOL DISTRICT OF PITTSBURGH,
Pennsylvania, Appellant.

Heard Oct. 25, 1978.

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Decided Nov. 8, 1978.

Attorneys and Law Firms

Justin M. Johnson, Sol., Bernard Markovitz, Asst. Sol.,
The Bd. of Public Ed. of the School Dist. of Pittsburgh,
Pa., Persifor S. Oliver, Jr., School Dist. of Pittsburgh,
Frederick A. Boehm, Pittsburgh, for appellant.

Roy Yaffe, S. Asher Winikoff, Pennsylvania Human
Relations Com'n, Harrisburg, Robert S. Morin, Gen.
Counsel, Pennsylvania Human Relations Com'n,
Harrisburg, *475 Jay Harris Feldstein, Pittsburgh, for
appellee.

OPINION

WILKINSON, Judge.

The decision of the Pennsylvania Supreme Court filed August 11, 1978, affirmed the order of this Court entered January 13, 1977, insofar as it directed the School District of Pittsburgh to submit to the Pennsylvania Human Relations Commission a definitive plan to correct racial imbalance in its schools. With respect to the remainder of the order, the six Justices of the Supreme Court were evenly divided, *476 three for remand to this Court for modification in accordance with an opinion by Justice Pomeroy and three for a modification of the order by the Supreme Court itself.

Assuming the January 13, 1977 order of this Court had been vacated at least in part, the Board of Public Education of the School District of Pittsburgh, Pennsylvania on August 30, 1978 petitioned this Court for leave to present testimony to aid the Court in modifying the January 13, 1977 order in accordance with Justice Pomeroy's opinion.

On September 15, 1978, this Court granted the prayer of the petition and fixed October 25, 1978 at 10:00 a. m. in Courtroom Number One, Sixth Floor, South Office Building, Harrisburg, Pennsylvania as the time and place to receive such testimony as the parties might desire to present. At that time and place each party presented testimony which has been transcribed and considered by this Court.

After consideration of the testimony and the opinion of Justice Pomeroy, we enter the following

ORDER

AND NOW, November 8, 1978, the School District of Pittsburgh and its Board are ordered to prepare and submit to the Pennsylvania Human Relations Commission a definitive plan to correct racial imbalance in its schools. The plan shall address the problems of school desegregation in good faith and in realistic fashion. The plan shall take into account the Recommended Elements and the significance they will have for the deliberations of the Commission in its review of the plan. However, this order permits some degree of flexibility, as directed by Justice Pomeroy's opinion, in recognition of the fact that a plan which fails to satisfy some aspect of the Recommended Elements may prove acceptable.

*477 The plan shall be submitted on or before July 1, 1979.

All Citations

38 Pa.Cmwlth. 475, 406 A.2d 1152 (Mem)