

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

PENNSYLVANIA HUMAN RELATIONS
COMMISSION,

Petitioners

vs.

No. 568 C.D. 1971

BOARD OF PUBLIC EDUCATION OF
THE SCHOOL DISTRICT OF
PITTSBURGH,

Respondent

PRAECIPE FOR DISCONTINUANCE

The Pennsylvania Human Relations Commission, Petitioner and the Board of Public Education of the School District of Pittsburgh, Respondent, by their respective attorneys, hereby request that the above-captioned case be discontinued for the reason that the issues previously raised herein, as well as those raised in the appeal in the Supreme Court at No. 27 W.D. Appeal Docket 1982 which has been discontinued, giving rise to this case have been amicably resolved between the parties.

Michael L. Foreman 2-22-83
Michael L. Foreman
Assistant General Counsel
Attorney for Petitioners
Pa. Human Relations Commission

Frederick A. Boehm
Frederick A. Boehm, Esq.
Attorney for Respondent
Board of Public Education
of the School District
of Pittsburgh

TOTAL P. 02

July 15, 1971

Pennsylvania Human Relations
Commission,

Appellee

568. — vs.

Board of Public Education of
The School District of
Pittsburgh, Pennsylvania
Appellant

Transcript of proceedings
heard October 25, 1978
88 folios at 30 cents
\$26.40
Pd. by Court 10/27/78
VT # 061

By Court 11/3/78 Jand
Rec. by atty. 11/6/78

FOR APPELLANT

Justin M. Johnson, Solicitor
Bernard Markovitz, Assistant
Solicitor

The Board of Public
Education of The School
District of Pittsburgh,
Pennsylvania
341 S. Bellefield Avenue
Pittsburgh, Penna. 15213

FOR APPELLEE

Roy Yaffe, Esquire
S. Asher Winikoff, Esq.
Penna. Human Relations
Commission
100 N. Cameron St.
Harrisburg, Penna.

FOR APPELLANT:

Persifor S. Oliver, Jr., Esq.
School District of Pittsburgh
341 S. Bellefield Avenue
Pittsburgh, Pa. 15213

FOR APPELLEE:

Robert S. Mirin, Esq.
General Counsel
Penna. Human Relations Comm.
100 North Cameron Street
Harrisburg, Pa. 17101
APPEARANCE WITHDRAWN (12-4-81)

FOR APPELLANT:

Frederick A. Boehm, Esq.
324 Frick Building

(Pd. \$20.00)

Appeal from the adjudication of t
Pennsylvania Human Relations Comm
made on June 7, 1971, and served
the Board of Public Education on
18, 1971.

July 15, 1971 Appeal and Excepti
July 15, 1971 Cert. Exit.

July 16, 1971 Petition for Super
filed by Appellant

July 20, 1971 Acceptance of Serv
State Human Relati
Commission filed.

July 26, 1971 On Petition for S
filed, the same is
granted (J. Bowma:
Order filed.

July 30, 1971 Petition for Reco
by Appellee filed

Aug. 11, 1971 Record lodged.

Aug. 5, 1971 Answer to Petitio
Reconsideration b
Appellant filed.

Aug. 5, 1971 Hearing upon peti
Appellee to recor
order of supersec
fore entered is 1
for 11:00 A.M.,
1971, Courtroom:
South Office Bldg
burg, Pa. (J. Bo
See Order filed.

*See Reversed Side

Jul-03-07 02:48pm

From-EXECUTIVE ADMINISTRATOR

7177877427

T-808 P. 02/07

F-484

sylvania Human
Relations Commission,
Appellee

vs.

of Education of
School District of
Pittsburgh, Penna.,
Appellant

Bellevue
~~BLANT~~:
Feldstein, Esq.
or, Law &
Building
Pittsburgh, Pa. 15219
-0677

LEE:
Doyle, Esq.
ty. Gen.
Human Relations Commission
h Avenue-Suite 1210
gh, Pa. 15222

CF ADDRESS
next page

FOR AMICUS CURIAE:
Thomas M. Kerr, Esq.
Jon Hogue, Esq.
Judith L. Maute, Esq.
Titus Marcus & Shapira
624 Oliver Building
Pittsburgh, Pa. 15222
412-471-3490

FOR INTERVENORS:
David Max Baer, Esq.
Abrams, Baer, Hilner &
Truitt
802 Frick Building
Pittsburgh, Pa. 15219
412-232-3525

Jul 30, 1976 Brief of Pennsylvania Human Relations Commission
in opposition to petition for supersedeas filed.
Aug 5, 1976 Memorandum of law upon petition for reconsideration
of order granting supersedeas filed.

Jul. 30, 1971 Petition for Reconsideration filed.
Aug. 16, 1971 On Order Petition to reconsider order of
supersedeas is affirmed and continued. See Order
filed. (J. Wilkinson)

Aug. 23, 1971 Petition for Consolidation of Appeals for Oral
Argument. by Appellant filed.

Aug. 30, 1971 Answer to the Pennsylvania Human Relations
Commission filed.

Sep. 2, 1971 On Order Now, September 2, 1971, it appearing th
the above captioned appeals, pursuant to Rule 3
come on for argument on the December Argument L
at Harrisburg, said appeals shall be consolidated
for Argument on said list. See Order filed. (J.
Bowman)

Oct. 8, 1971 On Order the above appeal is stricken from the N
umber Argument List at Harrisburg and directed to
rescheduled for argument on the December Argumer
List at Harrisburg as originally ordered. (J.
Bowman) See Order filed.

Nov. 17, 1971 Brief for Appellant filed.

Dec. 6, 1971 Brief for Appellee filed.

Aug-17, 1972 On Opinion, Order; the records in these cases are re
ded to The Pennsylvania Human Relation Commission. (J. Wilkinsor
Dissenting Opinion by Judge Mencer. See Opinion filed. Pd \$11.00

Aug 18, 1972 Acknowledgment of record, remittitur etc filed

Sept 29-72 The above captioned case has
been deposited in the William Penn Memorial
Museum and Archives Building for the purposa
of preserving the official records of the
Commonwealth Court. Cont'd on opposite
page

Francis C. Barbush
Chief Clerk

568-Cont'd

GENERAL APPEARANCE (Dec 4, 1981)

Pennsylvania Human Relations Commission
Suite 300
101 South Second Street
P. O. Box 3145
Harrisburg, Pennsylvania 17105-3145
Homer C. Floyd, Executive Director
(717) 787-4416

FOR PENNSYLVANIA HUMAN RELATIONS COMMISSION

Ellen M. Doyle,
Assistant General Counsel
Pa. Human Relations Commission
11th Floor State Office Building
300 Liberty Avenue,
Pittsburgh, Pennsylvania 15222
(412) 565-7979

FOR PA. HUMAN RELATIONS COMMISSION:

Michael L. Foreman, Esq.
Assistant General Counsel
State Office Building
300 Liberty Avenue
Pittsburgh, PA. 15222
(412) 565-5395

Aug 18, 1976 Petition for enforcement
Commission and affidavit of service
Aug 24, 1976 On Order, upon consideration
Pennsylvania Human Relations Commission
follows: (1) Appellant shall answer
13, 1976. (2) Appellee shall file
said petition on or before September
serve two copies thereof on appellant
shall contain a copy of the record
order sought to be enforced. (3) Appellee
number) contra said petition on or
simultaneously serve two copies thereof
directed to list said petition and
Argument List at Pittsburgh before
exit.
Sep 13, 1976 Answer to petition for
Relations Commission and New Matter
Sep 13, 1976 The appearance of Per
behalf of appellant. See entry of
Sep 29, 1976 Answer to new matter
Sep 30, 1976 Brief for appellee,
filed.
Oct 20, 1976 Brief for respondent
Oct 26, 1976 Argued in Pittsburgh
Jan 13, 1977 Opinion filed. PER C
Jan 13, 1977 On Order, AND NOW, the
Board are ordered to prepare and
Commission a definitive plan to comply
in accordance with the law and the
of said plan in Per Curiam filed.
Jan 24, 1977 Notice of appeal
filed.
Jan 27, 1977 Application for re
of service filed.
Feb 1, 1977 On Order, having con
reargument, said application is
Feb 15, 1977 Proof of service o
filed.
Feb 14, 1977 Notice of filing p

January 12, 1981 filed.

January 16, 1981 Objections to Enlargement of Time to File Briefs and to Fix Oral Argument and Certificate of Service filed.

ORDER

January 20, 1981 On Order 1. The briefs of the Board shall be filed and served on or before April 15, 1981. 2. The briefs of the Commission shall be filed and served on or before May 15, 1981. 3. Argument in this matter previously fixed for May 5, 1981, is hereby rescheduled to June 2, 1981, on the June 1981 Argument List at Harrisburg before the Court en banc sitting in the Supreme Court Courtroom. (J. Wilkinson, Jr.) Order exit April 13, 1981 Application for Establishment of Briefing Schedule, and Certificate of Service filed.

ORDER

April 14, 1981, On Order, upon consideration of the National Association for Neighborhood Schools of Pittsburgh, Inc.'s ("NANS") application for establishment of briefing schedule, said application is granted and NANS shall file and serve briefs on or before May 22, 1981. (J. Williams, Jr.) Order exit.

April 16, 1981 Requests for Findings of Fact and Conclusions of Law filed.

April 16, 1981 Brief in support of the requests for Findings of Fact and Conclusions of Law of the Board of Public Education of the School District of Pittsburgh, Pennsylvania, filed.

May 11, 1981 The appearance of Ellen M. Doyle is hereby entered on behalf of the Appellee. See letter dated May 11, 1981.

May 18, 1981 Request for findings of Fact and Conclusions of Law filed.

May 18, 1981 Commission's Brief in support of its Request for Findings of Fact and Conclusions of Law and Certificate of service filed.

May 18, 1981 Brief for Amicus Curiae Interracial AD HOC Group of Parents and Taxpayers and proof of service filed.

May 28, 1981 Brief for amicus curiae the National Association for Neighborhood Schools of Pittsburgh, Inc. et al. filed.

May 28, 1981 Motion for Leave to file out of Time and certificate of service filed.

ORDER

May 28, 1981 On Order, the motion for leave to file out of time of the National Association For Neighborhood Schools of Pittsburgh, Inc. shall be and hereby is granted and the Brief for Amicus Curiae is accepted for filing. (J. Blatt) Order exit.

ORDER

October 19, 1981 On order, the Chief Clerk is directed to list the above action for reargument before the Court en banc on the February 1982 argument list at Harrisburg. (J. MacPhail).

Dec 3, 1981 Notice given that argument for above case scheduled for Tuesday, Feb. 2, 1982 (9:30 EST) before the Court en banc, Supreme Court Room, Fourth Floor, Main Capitol Building, Harrisburg, Pennsylvania.

Dec 4, 1981 The appearance of Robert S. Mirin is hereby withdrawn as General Counsel for the Pennsylvania Human Relations Commission and the general appearance of the Pennsylvania Human Relations Commission is hereby entered. See letter submitted.

Dec 14, 1981 The appearance of Ellen M. Doyle is entered for the Pennsylvania Human Relations Commission (see change of address).

ORDER

April 20, 1982 On Order, it is hereby Ordered that:

(1) The application of the Board of Public Education of the School District of Pittsburgh (Pittsburgh Board) for a determination that the Pittsburgh Desegregation Plan, as revised by the Amended Plan dated March 14, 1980, constitutes full compliance with this court's order of November 8, 1978, requiring a definitive plan to correct racial imbalance in schools of the City of Pittsburgh, is refused;

(2) The application of the Pennsylvania Human Relations Commission (Commission), requesting that the Pittsburgh Board be held in contempt of court, is refused; and

(3) The request of the Commission that this court order the Pittsburgh Board to make further improvements in the Pittsburgh Desegregation Plan is denied and the Pittsburgh Board is hereby ORDERED to amend and

the Board of Public Education of the School District of Harrisburg, Pennsylvania, in its determination of compliance with Court order and the answer thereto of the Human Relations Commission for rule to show cause why the Board should not be held in contempt and why appropriate sanctions should not be imposed is hereby fixed for May 5, 1981 on the May 1981 Argument List before the Court en banc. The briefs of the Board of Public Education of the School District of Pittsburgh (fifteen (15) copies) shall be filed and served on or before February 18, 1981. The briefs of the Human Relations Commission (fifteen (15) copies) shall be filed and served on or before April 15, 1981. (J. Wilkinson, Jr.) Order exit.
January 12, 1981 Application of Appellant for Enlargement of Time to File Briefs and to fix Oral Argument and proof of service as per letter dated January 12, 1981 filed.
January 16, 1981 Objections to Enlargement of Time to File Briefs and to Fix Oral Argument and Certificate of Service filed.

ORDER

January 20, 1981 On Order 1. The briefs of the Board shall be filed and served on or before April 15, 1981. 2. The briefs of the Commission shall be filed and served on or before May 15, 1981. 3. Argument in this matter previously fixed for May 5, 1981, is hereby rescheduled to June 2, 1981, on the June 1981 Argument List at Harrisburg before the Court en banc sitting in the Supreme Court Courtroom. (J. Wilkinson, Jr.) Order exit.
April 13, 1981 Application for Establishment of Briefing Schedule, and Certificate of Service filed.

ORDER

April 14, 1981, On Order, upon consideration of the National Association for Neighborhood Schools of Pittsburgh, Inc.'s ("NANS") application for establishment of briefing schedule, said application is granted and NANS shall file and serve briefs on or before May 22, 1981. (J. Williams, Jr.) Order exit.

April 16, 1981 Requests for Findings of Fact and Conclusions of Law filed.
April 16, 1981 Brief in support of the requests for Findings of Fact and Conclusions of Law of the Board of Public Education of the School District of Pittsburgh, Pennsylvania, filed.
May 11, 1981 The appearance of Ellen M. Doyle is hereby entered on behalf of the Appellee. See letter dated May 11, 1981.

May 18, 1981 Request for findings of Fact and Conclusions of Law filed.
May 18, 1981 Commission's Brief in support of its Request for Findings of Fact and Conclusions of Law and Certificate of service filed.
May 18, 1981 Brief for Amicus Curiae Interracial AD HOC Group of Parents and Taxpayers and proof of service filed.
May 28, 1981 Brief for amicus curiae the National Association for Neighborhood Schools of Pittsburgh, Inc. et al. filed.
May 28, 1981 Motion for Leave to file out of Time and certificate of service filed.

ORDER

May 28, 1981 On Order, the motion for leave to file out of time of the National Association For Neighborhood Schools of Pittsburgh, Inc. shall be and hereby is granted and the Brief for Amicus Curiae is accepted for filing. (J. Blatt) Order exit.

ORDER

October 19, 1981 On order, the Chief Clerk is directed to list the above action for reargument before the Court en banc on the February 1982 argument list at Harrisburg. (J. MacPhail).
Dec 3, 1981 Notice given that argument for above case scheduled for Tuesday, Feb. 2, 1982 (9:30 EST) before the Court en banc, Supreme Court Room, Fourth Floor, Main Capitol Building, Harrisburg, Pennsylvania.
Dec 4, 1981 The appearance of Robert S. Mirin is hereby withdrawn as General Counsel for the Pennsylvania Human Relations Commission and the general appearance of the Pennsylvania Human Relations Commission is hereby entered. See letter submitted.
Dec 14, 1981 The appearance of Ellen M. Doyle is entered for the Pennsylvania Human Relations Commission (see change of address).

ORDER

April 20, 1982 On Order, it is hereby Ordered that:

(1) The application of the Board of Public Education of the School

er modify the Pittsburgh Desegregation Plan to correct racial imbalance, provided modifications do not result in any desegregated school becoming segregated according to the Commission's stated percentage guidelines, as follows:

a. As to South, Schenley and Westinghouse High Schools, giving consideration in the light of current facts and data, to the alternative solutions set forth by the Commission and by the Community Advisory Committee, and to any other alternative means for compliance;

b. As to the 19 elementary schools identified as remaining segregated according to the Commission percentage guidelines, in the light of current facts and data, giving consideration to the Commission's Proposal for Additional Desegregation of Pittsburgh Schools identifying such 19 elementary schools, to the recommendations of the Community Advisory Committee, and to any other alternative means for compliance;

c. In view of the overlong period of time which has already transpired in this matter, the Pittsburgh Board shall comply promptly with this order by submitting an alternative plan or plans for such compliance to the Commission on or before July 1, 1983. The submission may include alternative solutions provided that the same are specifically requested.

The court shall retain jurisdiction until further order of the court.

Craig) Order exit.

June 26, 1982 Notice of appeal to the Supreme Court of Pennsylvania and Certificate of service filed. Pd. \$15.00. (\$50.00 transmitted to the Supreme Court).

Board of Public Education of the School District of Pittsburgh appeals to the Supreme Court of Pennsylvania from the Order entered on April 20, 1982.

February 14, 1983 In the Supreme Court, the appeal filed to No. 27 W.D. Appeal No. 1, 1982 is discontinued. See praecipe for discontinuance filed in the Supreme Court.

March 15, 1983 Record remanded from the Supreme Court.

March 2, 1983 The above-captioned case is hereby withdrawn and discontinued by order of Michael L. Foreman, Attorney for the Pa. Human Relations Commission and by order of Frederick A. Boehm, Attorney for the Board of Public Education of the School District of Pittsburgh. See praecipe for discontinuance and Certificate of service filed.

June 22, 1983 Record remitted.

August 26, 1983 Acknowledgment of record filed.