

PLAINTIFFS' OPPOSITION TO MOTION TO DISMISS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

RICHARD B. SOBOL, et al.,	:	
Plaintiffs	:	CIVIL ACTION
UNITED STATES OF AMERICA,	:	NO. 67-243
Plaintiff-Intervenor	:	SECTION "E"
v.	:	
LEANDER H. PEREZ, SR., et al.,	:	
Defendants,	:	
STATE OF LOUISIANA,	:	
LOUISIANA STATE BAR ASSOCIATION,	:	
JOHN P. DOWLING, et al.,	:	
Defendant-Intervenors	:	

PLAINTIFFS' OPPOSITION TO MOTION OF
THE DEFENDANT-INTERVENOR, LOUISIANA
STATE BAR ASSOCIATION, TO DISMISS OR
FOR JUDGMENT ON THE PLEADINGS.

The defendant-intervenor, Louisiana State Bar Association, filed a motion to dismiss or for judgment on the pleadings on January 16, 1968. They also on the same date filed a supplemental and amended answer. The basis of the said motions appears to be the special defenses pleaded by the defendant-intervenor in its original answer as well as certain additional allegations in the nature of a special defense which are set forth in the amended answer.

Rather than burden this Court with additional material, we respectfully ask that the various memoranda heretofore filed by the plaintiffs in opposition to the various motions for summary judgment and to dismiss, of the original defendants, be considered by the Court in opposition to the within motions. Those memoranda are respectively the plaintiffs' memorandum dated February 27, 1967; the plaintiffs' pre-trial memorandum dated September 20, 1967; the plaintiffs' letter memorandum dated September 26, 1967; and the plaintiffs' opposition to the defendants' motion to dismiss dated December 15, 1967.

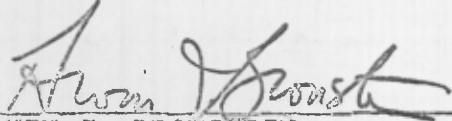
Although the additional allegations made in this defendant-intervenor's amended answer and their motion to dismiss are not very clear, they appear first to set out as fact that the plaintiff Sobol was at all times relevant to the allegations concerning Plaquemines Parish in the complaint qualified pursuant to LSA-R.S. 37:214. However, in paragraph three of the amended complaint and paragraph two of the motion of this defendant-intervenor to dismiss, in the exact same language, the question of the plaintiff Sobol's qualification and compliance with LSA-R.S. 37:214 is posed as a question by the use of the words in the beginning of said paragraphs, "If it be factually true that plaintiff Sobol..." and then this defendant-intervenor goes on to state at the end of that question as though it was a fact that the bill of information against the plaintiff Sobol "charges no offense whatever by plaintiff Sobol in violation of that statute ...". It is difficult to reconcile what is apparently an unreconcilable conflict in the two allegations of this same party. In any event, there is, in reality and in fact, an outstanding bill of information and pending prosecution against the plaintiff Sobol, and the original defendants, who include the district attorney of the Twenty-Fifth Judicial District, in their pleadings insist that there is a valid bill of information against the plaintiff Sobol.

Although we believe that the above facts are enough to require the denial of this defendant-intervenor's motions, we would respectfully draw the Court's attention to the very pertinent language in Dombrowski v. Pfister, 380 U.S. 479 (1965) where the Court stated at p. 487 that "The chilling effect upon the exercise of First Amendment rights may derive from the fact of the prosecution, unaffected by the prospects of its success or failure." (Emphasis supplied.) The pleadings in this case clearly establish that there is a

pending prosecution and bill of information against the plaintiff Sobol and no amount of speculative pleading by this defendant-intervenor can reduce the temperature of that "chill".

The within motions should be denied.

Respectfully submitted,



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Dated: January 18, 1968

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of January, 1968, I served copies of the foregoing Opposition upon the following listed attorneys of record for all parties by mailing copies of same to them, first class mail, postage prepaid:

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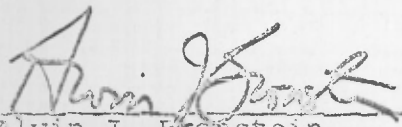
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