

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA HUMAN RELATIONS COMMISSION**

CURITS FELTON, Complainant

v.

**MARGARET BEMATRE, individually and doing business as PARADISE HOTE, and JOSEPH
BEMATRE, Respondent**

DOCKET NO. P-354

OPINION

FINDINGS OF FACT

CONCLUSIONS OF LAW

COMMISSION'S DECISION

FINAL ORDER

The complainant, a Negro residing in Greensburg, Westmoreland County, Pennsylvania, filed a verified complaint with the Pennsylvania Human Relations Commission (hereinafter referred to as "Commission") on April 16, 1965, charging that respondents violated the public accommodations provisions of the Pennsylvania Human Relations Act by refusing to serve him and two of his Negro friends in the restaurant and bar owned and operated by respondents at the Paradise Hotel, 711-713 Clay Avenue, Jeannette, Westmoreland County, Pennsylvania.

James P. Barrett, the Human Relations Representative to whom the complaint was assigned for investigation, determined there was probable cause to credit the allegations of the complaint. Thereafter, attempts to effect an amicable adjustment of the complaint failed to materialize and the Commission therefore conducted a public hearing of the case in the Westmoreland County Courthouse, in Greensburg, Pennsylvania, on August 10, 1965, at 11:00 o'clock A.M. The Hearing was conducted by a Hearing Panel consisting of Commissioner Paul A. Simmons, presiding, Commissioner James B. Cayce and Commissioner Florence S. Reizenstein.

The case in support of the complaint was presented by Nathan Agran, General Counsel for the Commission, who called the complainant and three other witnesses to the stand in support of the charge. He also called to the stand as of cross-examination the respondents, Mr. and Mrs. Joseph Bematre.

The respondents did not file an Answer to the Complaint and were not represented by counsel, but were present at the hearing. The respondent, Margaret Bematre, acted as attorney for herself and her husband, cross-examined complainant and his witnesses and then was called to the stand as of cross-examination and gave testimony in her own right.

The Hearing Commissioners observed carefully the manner in which all of the witnesses gave testimony and answered questions and are unanimously of the opinion that the complainant and his witnesses are worthy of belief. The Hearing Commissioners recommend on all the evidence at the public hearing, that the Commission find that the respondents, Margaret Bematre, individually and doing business as Paradise

Hotel, and Joseph Bematre, have committed unlawful discriminatory practices in violation of the public accommodations provisions of the Pennsylvania Human Relations Act.

The Hearing Commissioners, Paul A. Simmons, Esq., James B. Cayce and Florence S. Reizenstein, make the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The complainant, Curtis Felton, is a Negro who at all times mentioned herein was a resident of Greensburg, Westmoreland County, Pennsylvania.
2. The respondent, Margaret Bematre, is the owner and operator of the restaurant and bar located in the Paradise Hotel in Jeannette, Westmoreland County, Pennsylvania, and is the person to whom Hotel Liquor License No. H-4127 and Amusement Permit No. AP-11464 expiring April 30, 1966, has been issued by the Pennsylvania Liquor Control Board.
3. The respondent, Joseph Bematre, is the husband of the said Margaret Bematre, who acts as a bartender at the said bar and restaurant located in the Paradise Hotel, Jeannette, Pennsylvania, and who, together with the said Margaret Bematre, operates the said restaurant and bar.
4. At all times herein mentioned, the restaurant and bar in the Paradise Hotel in Jeannette, Pennsylvania, was and it still is an establishment which is open to, accepts or solicits the patronage of the general public.
5. On the evening of March 22, 1965, William Callahan, the white editor of a Catholic newspaper in Greensburg and a Vice-President of the local chapter of the National Association for the Advancement of Colored People, together with Bill Rosendahl, a white student at St. Vincent's College, entered the restaurant and bar in the Paradise Hotel, Jeannette, Pennsylvania, and were served by the respondent, Margaret Bematre, with a cup of coffee and with a drink of "pop" or soda water.
6. At the said time and place, within minutes after William Callahan and Bill Rosendahl were thus served by respondent, Margaret Bematre, the complainant and two of his Negro friends, Paul Smith, a Lieutenant in the United States Army, and Wallace Walter Sherwood, a student at St. Vincent's College, likewise entered the said restaurant and bar operated by respondents, seeking to be served therein.
7. At the said time and place, in the evening of March 22, 1965, the complainant and his two Negro friends sat in the restaurant and bar of the respondents for five minutes without being served by either of the respondents and without any offer of service being made by either of the respondents.
8. After waiting for five minutes, complainant and his friends asked the respondent, Margaret Bematre, "May we be served?" to which the said respondent replied, "The bartender (meaning her husband, Joseph Bematre) is not here." At the time, the bartender, her husband, Joseph Bematre, was in the said restaurant and bar and witnessed and heard what was happening but said and did nothing.
9. On March 22, 1965, when respondent, Margaret Bematre, said, "The bartender is not here," she knew that her husband, the bartender, was in fact present, and she used said expression as a trick, device or excuse for refusal to serve complainant and his friends at said restaurant and bar because said individuals are Negroes.
10. At the said time and place, complainant and his friends specifically asked the respondent, Margaret Bematre, to be served with "pop" or soda water and was told by respondent that there was no "pop" or soda water; whereupon she was asked to serve ginger ale to which she again replied that there was no ginger ale; whereupon she was asked to serve coffee to which she again said that there was no coffee.
11. On March 22, 1965, when respondent, Margaret Bematre, did not serve complainant and his Negro friends with soda water, ginger ale or coffee, she could have served them if she desired to do so, and she made the assertion that there was no soda water, ginger ale or coffee as a trick, device or excuse for refusal to serve complainant and his friends because said individuals are Negroes.

12. At the said time and place, complainant and his friends, after being refused service of soda water, ginger ale and coffee by respondent, Margaret Bematre, asked her to sell them a bag of potato chips which were plainly in sight, whereupon the said respondent refused to sell complainant and his friends a bag of potato chips.
13. On March 22, 1965, when respondent, Margaret Bematre, refused to serve complainant and his friends with potato chips, she did so because said individuals are Negroes.
14. At the time when complainant and his friends were refused service at the restaurant and bar of the respondents in the Paradise Hotel in Jeannette, Pennsylvania, the said complainant and his friends behaved properly, did not in any way cause a disturbance and acted as gentlemen.
15. By telling the complainant and his friends that they could not be served because "the bartender is not here", when in fact she well knew that she could make service herself and that the bartender, her husband, was present; and by telling the complainant and his friends that she could not serve them with soda water, ginger ale or coffee because there was none to serve, when in fact such food could have been served; and by refusing to sell to complainant and his friends potato chips which were clearly in sight, the respondents, directly or indirectly, refused, withheld from or denied to Negroes, because of their race, the accommodations, advantages, facilities or privileges of a place of public accommodations, resort or amusement, and at the same time, the respondents announced and maintained a policy that the patronage of Negroes at respondents' restaurant and bar in the Paradise Hotel, Jeannette, Pennsylvania, is unwelcome, objectionable, or not acceptable, desired or solicited.

CONCLUSIONS OF LAW

1. At the time of the events complained of, complainant was and he still is an inhabitant of the Commonwealth of Pennsylvania, who properly filed a verified complaint with the Pennsylvania Human Relations Commission.
2. At the time of the events complained of, the restaurant and bar in the Paradise Hotel in Jeannette, Pennsylvania, was and it still is a place of public accommodation, resort or amusement, within the meaning of Section 4(1) of the Pennsylvania Human Relations Act.
3. At the time of the events complained of and at the present time, the respondent, Margaret Bematre, is the holder of a Hotel Liquor License and Amusement Permit issued by the Pennsylvania Liquor Control Board, authorizing her to operate the restaurant and bar in the Paradise Hotel, in Jeannette, Pennsylvania; and the said restaurant and bar is in fact operated and controlled by both respondents, Margaret Bematre and her husband, Joseph Bematre.
4. At all times since the filing of the complaint herein, the Commission had and it still has jurisdiction over the persons of the respondents.
5. At all times since the filing of the complaint herein, the Commission had and it still has Jurisdiction over the subject matter of this proceeding and over the complaint.
6. The respondents have refused, withheld from or denied to Negroes, because of their race, the accommodations, advantages, facilities or privileges of a place of public accommodation, resort or amusement, in violation of Section 5(i) of the Pennsylvania Human Relations Act.
7. The respondents committed unlawful discriminatory practices in violation of Section 5(i) of the Pennsylvania Human Relations Act by maintaining a policy whereunder the patronage of Negroes at respondents' restaurant and bar in the Paradise Hotel in Jeannette, Pennsylvania, is unwelcome, objectionable, or not acceptable, desired or solicited.

The Hearing Commissioners do not believe the story related by the respondents in their own defense to the effect that the complainant and his friends, when they entered respondents' establishment on March 22, 1965, asked for intoxicating liquor and refused to state their ages when requested to do so. First of all, the white witness, William Callahan, who was present and witnessed the entire incident, denied that complainant and his friend were asked by respondent to state their ages or that complainant and his two friends asked for any kind of intoxicating drink. He verified in all respects the story told by complainant

and his witness, Wallace Walter Sherwood. Also, the Hearing Commissioners observed how the complainant and his witnesses testified and are convinced that their story rings true and that they are worthy of belief. Finally, the witness, James P. Barrett, Human Relations Representative who investigated the facts of the case and met with the respondents testified that the respondents did not deny their refusal to serve the complainant and his friends and said, among other things, "What the hell do the God-damn Niggers want to come in here for -- they got their own place to go," and also, "If you (meaning Mr. Barrett) want to live with the Niggers, you can, but we don't have to."

The testimony given by complainant and his witnesses shows a clear intention by respondents to treat Negroes who enter the restaurant and bar operated by them in the Paradise Hotel in a discriminatory manner because of their race, and in a manner entirely different from the way they treat their white customers.

The two white customers and the three Negro customers who entered the respondents' establishment immediately thereafter were all members of the local chapter of the National Association for the Advancement of Colored People (NAACP) and were operating according to a well-conceived, prior plan to test the practices of respondents. They testified that they had agreed in advance among themselves to dress well, act properly and do nothing which would cause a disturbance, and the evidence shows clearly that their behavior on the night of March 22, 1965, when they entered respondents' establishment, was gentlemanly and could not have given cause to respondents for their refusal to serve the three Negroes.

The Hearing Commissioners therefore recommend to the Commission that a cease and desist order be entered against the respondents requiring them to operate their restaurant and bar in the Paradise Hotel in Jeannette, Westmoreland County, Pennsylvania, without practicing racial discrimination against Negroes seeking to be served therein.

PAUL A SIMMONS, Presiding Hearing Commissioner

JAMES B. CAYCE, Hearing Commissioner

FLORENCE S. REIZENSTEIN, Hearing Commissioner

COMMISSION'S DECISION

AND NOW, August 31, 1965, upon recommendation of the Hearing Commissioners, upon all of the evidence at the public hearing of this case, and in consideration of the findings of fact and conclusions of law by the Hearing Commissioners, the Pennsylvania Human Relations Commission unanimously finds and determines:

1. The Commission has jurisdiction over the person of the respondents, over the subject matter of this proceeding and over the instant complaint.
2. The respondents have committed unlawful discriminatory practices in violation of Section 5(i) of the Pennsylvania Human Relations Act, in that they have refused, withheld from and denied to the complainant and complainant's friends, because of their race, the accommodations, advantages, facilities and privileges of their business establishment, the restaurant and bar in the Paradise Hotel,

in Jeannette, Westmoreland County, Pennsylvania, a place of public accommodation, resort or amusement.

FINAL ORDER

AND NOW, this 31st day of August, 1965, upon consideration of the foregoing Findings of Fact, Conclusions of Law and Commission's Decision, and pursuant to Section 9 of the Pennsylvania Human Relations Act, it is hereby

ORDERED, by the Pennsylvania Human Relations Commission:

1. That the respondents, Margaret Bematre, individually and doing business as Paradise Hotel, and Joseph Bematre, their agents and employes, shall cease and desist from, directly or indirectly, refusing, withholding from or denying to the complainant, to other Negroes, and to other persons because of their race, color, religious creed, ancestry or national origin, the accommodations, advantages, facilities or privileges of the restaurant and bar in the Paradise Hotel located in Jeannette, Westmoreland County, Pennsylvania or any other restaurant or bar operated by respondents or any of them within the Commonwealth of Pennsylvania.
2. That the respondents, Margaret Bematre and Joseph Bematre, shall take the following affirmative action, which in the judgment of the Commission, will effectuate the purposes of the Pennsylvania Human Relations Act:
 - a. Extend to the complainant, without regard to his race or color, full, equal and unsegregated accommodations, advantages, facilities and privileges at the restaurant and bar of the Paradise Hotel, Jeannette, Pennsylvania;
 - b. Extend to all persons, without regard to their race, color, religious creed) ancestry or national origin) full, equal and unsegregated accommodations, advantages, facilities and privileges at the restaurant and bar of the Paradise Hotel, Jeannette, Pennsylvania, and any other restaurant or bar operated by the respondents or any of them within the Commonwealth of Pennsylvania;
 - c. Instruct all of the respondents' employes, in writing, to serve alcoholic beverages and food to Negro customers entering the restaurant and bar at the Paradise Hotel, Jeannette, Pennsylvania, and any other restaurant or bar operated by respondents or any of them in the Commonwealth of Pennsylvania, in the same manner as to white customers. Copies of such written instructions, signed by all of respondents' employes and acknowledging receipt and understanding thereof shall be transmitted to the Commission by the respondents;
 - d. Post and maintain in a conspicuous place at the restaurant and bar in the Paradise Hotel, Jeannette, Pennsylvania, where patrons entering the restaurant and bar may easily see it, a copy of the Commission's public accommodations poster, furnished by the Commission; and
 - e. Notify the Pennsylvania Human Relations Commission at its office at No. 1401 Labor and Industry Building, Harrisburg, Pennsylvania, 17120, in writing, within fifteen (15) days after service of this Final Order, as to the steps the respondents have taken to comply therewith.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

By

HARRY BOYER
Chairman

ATTEST: