

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY

COMMONWEALTH OF PENNSYLVANIA

:

NO. 42

:

v.

:

EDWIN J. MCKINLEY, JOSEPH TAFFE,  
THOMAS S. VARLEY, JACK ZELL,  
EARL B. BAKER, HENRY F. BAKER  
MRS. BERNARD R. DISANTIS, MRS.  
ANTHONY J. GIGLIOTTI, MRS.  
ELWOOD MILLER, MRS. ALBERT  
RANALLI, JAMES WILSON, MRS.  
JAMES WILSON, THOMAS MONTEITH,  
JR., THEODORE E. PASTORE and  
CHARLES R. TOOGOOD

IN EQUITY

*December*

TERM, 1963

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COMPLAINT IN EQUITY

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1. The plaintiff is the Commonwealth of Pennsylvania.
2. The named defendants are residents of the Borough

of Folcroft, County of Delaware, Commonwealth of Pennsylvania,

and are as follows:

Edwin J. McKinley, 891 Taylor Drive

Joseph Taffe, 1901 Fowler Road

Thomas S. Varley, 727 Taylor Drive

Jack Zell, 1087 Taylor Drive

Earl B. Baker, 968 Taylor Drive

Henry F. Baker, 968 Taylor Drive

Mrs. Bernard R. DiSantis, 2008 Heather Road

Mrs. Anthony J. Gigliotti, 2010 Heather Road

Mrs. Elwood Miller, 2004 Heather Road

Mrs. Albert Ranalli, 2006 Heather Road

James Wilson, 2012 Heather Road

Mrs. James Wilson, 2012 Heather Road

Thomas Monteith, Jr., 510 Charmont Avenue

Theodore E. Pastore, 2125 Ravenwood Drive

Charles R. Toogood, 402 Crotzer Avenue

3. On or about August 1, 1963, Horace Baker and Sara

W., his wife, Negroes, purchased a house at 2002 Heather Road, Folcroft, Delaware County, Pennsylvania, and on August 30, 1963, with their one minor child, moved into the house and have continued to reside there.

4. On or about August 31, 1963, and continuing to the present time, the defendants entered into an unlawful, malicious and evil conspiracy with each other and with other persons unknown to the plaintiff, the purposes of said conspiracy being:

(a) to force the said Baker family to leave Folcroft;

(b) to harass, annoy, intimidate, silence and deprive the Baker family of their rights to peaceable enjoyment of their property;

(c) to deprive the said Baker family of their rights to personal security and equal protection of the laws; said conspiracy and said purposes being in violation of the Constitution of the United States, the Federal Civil Rights Act, R.S. Sec. 1980, 42 USC Sec. 1985, enacted pursuant thereto, and the Constitution and laws of the Commonwealth of Pennsylvania, particularly Act of October 27, 1955, P.L. 744 as amended by Act of February 28, 1961, P.L. 47, known as the Pennsylvania Human Relations Act and Regulation 303 adopted under and pursuant to the said Pennsylvania Human Relations Act.

5. In furtherance and pursuance of said conspiracy and with intent to make said conspiracy effective, the defendants, Edwin J. McKinley, Joseph Taffe, Thomas S. Varley and Jack Zell, in cooperation with other persons unknown to the plaintiff, did

(a) instigate, organize and participate in a series of meetings and public demonstrations in and about the Borough of Folcroft, beginning August 31, 1963 and

continuing for several months thereafter, wherein said defendants incited and aroused the citizens of Folcroft to refuse to welcome the Baker family because they are Negroes, to use resistance to the Baker family by demonstrations and to boycott and refuse to deal with any Folcroft business which serves the Baker family;

(b) instigate, organize and participate in a certain public rally on or about August 31, 1963, in the Folcroft Swim Club located in Folcroft, attended by more than 1,000 Delmar Village residents, at which rally the said defendants incited the residents of Folcroft against the Baker family and induced the said Folcroft residents to subscribe to a written statement announcing to the general community that the residents of Folcroft "do not welcome the Baker family into our community because of the way they arrived," and that "We will use passive resistance by demonstrations and boycotts of any business which serves or deals with them," and that "Perhaps this small borough can show this great nation that the Federal Government cannot force social integration upon the population";

(c) instigate, organize and plan a "Freedom March" against "forced integration" to take place on Sunday, October 13, 1963, and did, in connection therewith, convene approximately 250 residents of Folcroft on Saturday, October 12, 1963, in Montgomery Park, Folcroft, at which time the said defendants again incited the residents of Folcroft against the Baker family.

6. In furtherance and pursuance of said conspiracy and with intent to make said conspiracy effective, the defendants, Earl B. Baker, Henry F. Baker, Mrs. Bernard R. DiSantis, Mrs. Anthony J. Gigliotti, Mrs. Elwood Miller, Mrs. Albert Ranalli, James Wilson and Mrs. James Wilson, in cooperation with other persons unknown to the plaintiff, did, beginning August 31, 1963 and continuing until on or about November 14, 1963.

(a) incite, instigate and participate in a course of conduct designed to harass, annoy and disturb the Baker family for the purpose of indicating to the Baker family that they were not welcome in the community of Delmar Village in Folcroft;

(b) incite, instigate and arouse other residents of Folcroft to commit acts of vandalism and unlawful acts against the Baker family to deprive the Baker family of their right to the peaceable enjoyment of their property.

7. On or about August 31, 1963, and continuing intermittently to on or about November 16, 1963, the defendants have incited, instigated and organized a course of conduct participated in by the said defendants and other persons whose identities are unknown, designed to harass, annoy and disturb the Baker family and to prevent the Baker family from enjoying peaceful possession of their property and to indicate to the Baker family that they are not welcome or desired in the Folcroft community. Such conduct includes, without limitation:

(a) Making numerous and threatening telephone calls at all times of the day and night during the two-week period beginning August 31, 1963, to the Baker family;

(b) Sending to the Baker family, beginning August 31, 1963 and up to and including the present time, anonymous letters which are insulting, degrading and disrespectful

and two of which threaten violence to the Baker family and property;

(c) Deliberately placing automobiles in front of and to the rear of the Baker family automobile throughout the period August 31, 1963 to November 1, 1963, making it impossible or very difficult to move the Baker automobile away from the curb into the street;

(d) Uttering taunts, scurrilous and disrespectful remarks, including the word, "Nigger," and making insulting gestures to members of the Baker family and also to friends of the Baker family, white and Negro, who visited them.

This conduct persisted from August 31, 1963 through on or about November 7, 1963, particularly on the part of the defendants, Mrs. Bernard R. DiSantis, Mrs. Anthony J. Gigliotti, Mrs. Elwood Miller, Mrs. Albert Ranalli, Mr. James Wilson and Mrs. James Wilson;

(e) Stringing signs near the Baker property, particularly by the defendants, Earl B. Baker and Henry F. Baker, on or about September 2, 1963, which said signs

read, "DVC versus NAACP," "Block Buster" and "Get Out, Blockbusters";

(f) Printing and distributing throughout Folcroft, on or about October 16, 1963, leaflets urging Folcroft residents to boycott and refuse to deal with the A & P and Grant stores in Folcroft, since said stores had sold merchandise to the Baker family;

(g) Splattering red paint on the Baker family automobile shortly after midnight on October 27, 1963, by persons attending a party in the home of the defendants, Mr. and Mrs. James Wilson, at 2012 Heather Road, Folcroft;

(h) Issuing a traffic violation ticket to the Baker family at or near midnight on October 27, 1963, by the defendant, Theodore E. Pastore, for parking the Baker family automobile more than six inches from the curb, without issuing similar traffic violation tickets to many other owners whose automobiles were then and there similarly parked;

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(b) to harass, annoy, intimidate, silence and deprive the

Baker family of their rights to peaceable enjoyment of their property;

(c) to deprive the said Baker family of their rights to personal security and equal protection of the laws;

said conspiracy and said purposes being in violation of the Constitution of the United States, the Federal Civil Rights Act, R.S. Sec. 1980, 42 USC Sec. 1985, enacted pursuant thereto, and the Constitution and laws of the Commonwealth of Pennsylvania, particularly Act of October 27, 1955, P.L. 744 as amended by Act of February 28, 1961, P.L. 47, known as the Pennsylvania Human Relations Act and Regulation 303 adopted under and pursuant to the said Pennsylvania Human Relations Act.

5. In furtherance and pursuance of said conspiracy and with intent to make said conspiracy effective, the defendants, Edwin J. McKinley, Joseph Taffe, Thomas S. Varley and Jack Zell, in cooperation with other persons unknown to the plaintiff, did

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(b) instigate, organize and participate in a certain public rally on or about August 31, 1963, in the Folcroft Swim Club located in Folcroft, attended by more than 1,000 Delmar Village residents, at which rally the said defendants incited the residents of Folcroft against the Baker family and induced the said Folcroft residents to subscribe to a written statement announcing to the general community that the residents of Folcroft "do not welcome the Baker family into our community because of the way they arrived", and that "We will use passive resistance by demonstrations and boycotts of any business which serves or deals with them", and that "Perhaps this small borough can show this great nation that the Federal Government cannot force social integration upon the population" ;

(c) instigate, organize and plan a "Freedom March" against "forced integration" to take place on Sunday, October 13, 1963, and did, in connection therewith, convene approximately 250 residents of Folcroft on Saturday, October 12, 1963, in Montgomery Park, Folcroft, at which time the said defendants again incited the residents of Folcroft against the Baker family.

6. In furtherance and pursuance of said conspiracy and with intent to make said conspiracy effective, the defendants, Earl B. Baker, Henry F. Baker, Mrs. Bernard R. DiSantis, Mrs. Anthony J. Gigliotti, Mrs. Elwood Miller, Mrs. Albert Ranalli, James Wilson and Mrs. James Wilson, in cooperation with other persons unknown to the plaintiff, did, beginning August 31, 1963 and continuing until on or about November 14, 1963

(a) incite, instigate and participate in a course of conduct designed to harass, annoy and disturb the Baker family for the purpose of indicating to the Baker family that they were not welcome in the community of Delmar Village in Folcroft;

(b) incite, instigate and arouse other residents of Folcroft to commit acts of vandalism and unlawful acts against the Baker family to deprive the Baker family of their right to the peaceable enjoyment of their property.

7. In furtherance and pursuance of said conspiracy and with intent to make said conspiracy effective, the defendants, Thomas Monteith, Jr., Theodore E. Pastore, Joseph Taffe and Charles R. Toogood, in cooperation with other persons unknown to the plaintiff did, on or about October 26, 1963, November 14, 1963 and November 16, 1963, instigate and participate in a course of conduct whereunder the process of law was improperly used against the Baker family for the deliberate purpose of harassing, annoying and disturbing the Baker family and deliberately designed to indicate to the Baker family that they were not welcome in the community of Delmar Village in Folcroft.

8. On or about August 31, 1963, and continuing intermittently to on or about November 16, 1963, the defendants have incited, instigated and organized a course of conduct participated in by the said defendants and other persons whose identities are unknown, designed to harass, annoy and disturb the Baker family and to prevent the Baker family from enjoying peaceful possession of their property and to indicate to the Baker family that they are not welcome or desired in the Folcroft community. Such conduct includes, without limitation :

(a) Making numerous and threatening telephone calls at all times of the day and night during the two-week period beginning August 31, 1963, to the Baker family;

(b) Sending to the Baker family, beginning August 31, 1963 and up to and including the present time, anonymous letters which are insulting, degrading and disrespectful and two of which threaten violence to the Baker family and property;

(c) Deliberately placing automobiles in front of and to the rear of the Baker family automobile throughout the period August 31, 1963 to November 1, 1963, making it impossible or very difficult to move the Baker automobile away from the curb into the street;

(d) Uttering taunts, scurrilous and disrespectful remarks, including the word, "Nigger", and making insulting gestures to members of the Baker family and also to friends of the Baker family, white and Negro, who visited them. This conduct persisted from

August 31, 1963 through on or about November 7, 1963, particularly on the part of the defendants, Mrs. Bernard R. DiSantis, Mrs. Anthony J. Gigliotti, Mrs. Elwood Miller, Mrs. Albert Ranalli, Mr. James Wilson and Mrs. James Wilson;

(e) Stringing signs near the Baker property, particularly by the defendants, Earl B. Baker and Henry F. Baker, on or about September 2, 1963, which said signs read, "DVC versus NAACP", "Block Buster" and "Get Out, Blockbusters" ;

(f) Printing and distributing throughout Folcroft, on or about October 16, 1963, leaflets urging Folcroft residents to boycott and refuse to deal with the A & P and Grant stores in Folcroft, since said stores had sold merchandise to the Baker family;

(g) Splattering red paint on the Baker family automobile shortly after midnight on October 27, 1963, by persons attending a party in the home of the defendants, Mr. and Mrs. James Wilson, at 2012 Heather Road, Folcroft;

(h) Issuing a traffic violation ticket to the Baker family at or near midnight on October 27, 1963, by the defendant, Theodore E. Pastore, for parking the Baker family automobile more than six inches from the curb, without issuing similar traffic violation tickets to many other owners whose automobiles were then and there similarly parked;

(i) Crushing and destroying trash cans belonging to the Baker family, situated in the rear yard of the Baker property, on or about October 28, 1963;

(j) Smearing white paint on the back door and garage of the Baker property on October 30, 1963;

(k) Throwing eggs against the front door of the Baker property on November 1, 1963 and then hurling disrespectful and rude language at Mrs. Sara W. Baker when she attempted to clean the door;

(l) Throwing a dead snake on the front steps of the Baker property on November 14, 1963; and

(m) Causing the improper arrest of Mr. Horace Baker on November 16, 1963, for alleged violation of an Ordinance of the Borough of Folcroft requiring a plumber to obtain a license, claiming that the plumber who repaired Mr. Baker's hot water heater, after same had been destroyed by unruly mobs during riots which occurred when the Baker family moved into their home on August 30, 1963, had never secured such license. The defendant, Joseph Taffe, was instrumental in causing said illegal action to be taken against the Baker family; the defendant, Charles R. Toogood, Plumbing Inspector of Folcroft Borough, signed the information for the warrant of arrest of Mr. Horace Baker; and the defendant, Thomas Monteith, Jr., served the criminal summons upon Mr. Baker at Mr. Baker's property at or after midnight on November 16, 1963.

9. On or about August 30, 1963, the activities of the mobs engaging in riots in the vicinity of 2002 Heather Road, Folcroft, and the threats to the Baker family posed by such mobs were so serious as to require constant police protection of the said Baker family and property. On or about August 31, 1963, and continuing until the present time, the State Police have been on constant duty in the vicinity of 2002 Heather Road, Folcroft, to protect life and property and to preserve the public peace.

10. No adequate remedy at law is available to prevent irreparable damage. A multiplicity of actions would be required to prevent these continuing and threatened acts of violence, nuisances and violations of law to the detriment of the public and the rights of private individuals.

WHEREFORE, the Commonwealth requests the Court to grant a preliminary injunction and to enter a decree enjoining the defendants and all other persons acting in concert or in cooperation with them from doing any of the following

acts :

- (a) Soliciting the residents of Folcroft to use resistance to the Baker family by demonstrations for the purpose of forcing the Baker family to move away from the Borough of Folcroft;
- (b) Soliciting the residents of Folcroft to boycott and refuse to deal with any Folcroft business which serves the Baker family, as a means of causing the Baker family to move away from the Borough of Folcroft and to indicate to the Baker family that they are not welcome in Folcroft;
- (c) In any manner threatening or intimidating Mr. or Mrs. Horace Baker, or in any manner threatening the destruction or mutilation of the Baker property;
- (d) Invoking the process of law against the Baker family without just cause and for the purpose of annoying, harassing and degrading the Baker family;
- (e) Uttering disrespectful remarks and insulting gestures to members of the Baker family or to friends of the Baker family who may visit them at their home;
- (f) Committing acts of vandalism upon the Baker property, including the throwing of eggs and the smearing of paint;
- (g) Exhibiting inflammatory placards or signs or other printed material inciting to hatred against the Baker family because of their race;
- (h) Taking any acts of any kind whatever which seek by force, violence or intimidation to compel the removal or withdrawal of the said Baker family from Folcroft or by force, violence or intimidation to prevent the sale of any property in Folcroft to any Negro; and
- (i) to grant such other relief as the Court shall deem appropriate.

And your petitioner will ever pray.

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Nathan Agran  
Special Assistant Attorney General

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Arthur C. Thomas  
Deputy Attorney General

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Walter E. Alessandrini  
Attorney General