

COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE  
PENNSYLVANIA HUMAN RELATIONS COMMISSION

BARBARA JONES,  
Complainant

v.

CITY OF PHILADELPHIA, et al.,  
Respondent

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Docket No. P-2728

RECOMMENDATION OF HEARING PANEL

AND NOW, this *4th* day of *December*, 1992, upon consideration of the Commission Counsel's Application for Amendment to Complaint and Respondent's Answer in Opposition to Application for Amendment to Complaint in the above-referenced matter, it is hereby

RECOMMENDED

to the full Commission, pursuant to 16 Pa. Code §42.131(c)(1), that the Commission Counsel's Application for Amendment to Complaint is hereby denied, and the complaint docketed at P-2727 is hereby dismissed.

In the instant case, Barbara Jones filed a complaint against We the People 200, Inc., City of Philadelphia, and Office of the Mayor, at docket numbers P-2727 and P-2728. During November 1987, the Complainant filed an amended complaint against both parties. On December 13, 1988, the Commission advised Complainant and Respondent that probable cause existed to credit the allegations contained in the complaint with respect to the Respondent City of Philadelphia. The Commission did not find probable

cause to credit the allegations with respect to We the People 200, Inc., and advised the parties of this finding in the December 13, 1988 correspondence.

Subsequent to the finding of probable cause, the Commission attempted to resolve this dispute through conference, conciliation and persuasion but was unable to do so. On March 1, 1990, the Commission notified the parties that a public hearing had been approved. After the approval for public hearing, the named Complainant in this matter, Barbara Jones, died.

Before the panel of Commissioners in this matter is an Application for Amendment to Complaint. 16 Pa. Code §§42.35(a) and (b) of the Commission regulations state, as follows:

(a) The complaint or answer may be amended at any time prior to approval of a hearing on the merits and thereafter by leave of the Commissioners, hearing commissioners or permanent hearing examiner.

(b) The complaint may be amended to cure technical defects or omissions, to clarify or amplify allegations made therein, or to add material allegations which are related to or grow out of the subject matter of the original complaint, and these amendments shall relate back to the original filing date of the complaint.

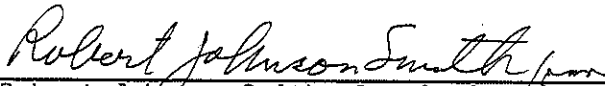
Clearly, subsection (a) gives the Commissioners the authority to grant an amendment to a complaint after the matter has been approved for public hearing. However, upon review of the documents before the panel of Commissioners, it is clear that no technical defect or omission is evident in this case. The named Complainant is deceased, and the amendment is not an attempt to appoint another representative of the named Complainant. Also, as counsel for Respondent recognize, this is not a class action complaint.

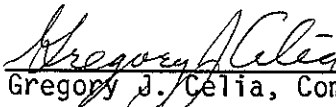
Secondly, the Application for Amendment is not an attempt to amplify or clarify any of the allegations raised in the original complaint, nor does the application for amendment add any material allegations related to or growing out of the subject matter of the original complaint. The Application for Amendment attempts to substitute two parties as Complainant. However, these two individuals were not at the City of Philadelphia Civic Center at the time alleged in the original complaint, and there is no evidence that either of these individuals were denied access on the date of the alleged discrimination in the original complaint.


Therefore, the Application for Amendment of the Complaint filed by Commission counsel in this matter is hereby denied, and the instant complaint, docketed at P-2727, is dismissed.

This action does not preclude any individual from filing a specific complaint with the Commission in a timely manner.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

  
Robert Johnson Smith, Commissioner

  
Gregory J. Celia, Commissioner

  
Elizabeth C. Umstatted, Commissioner

