

NAACP v. HARRIS

United States District Court for the District of Massachusetts

January 23, 1981

CIVIL ACTION No. 78-850-S

Reporter: 1981 U.S. Dist. LEXIS 10552

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, BOSTON CHAPTER, DORIS BUNTE, ROBERT FORTES, MELVIN H. KING, SANDRA KAY GIBBS, MARY GRIGSBY, MARY LEE COBB, PATRICIA LINK, DOROTHY PAUL, AND LAVERNE SMITH ROBERTS, individually and on behalf of all other persons similarly situated. v. PATRICIA HARRIS, Sec. of HUD., EDWARD MARTIN, Regional Administrator of HUD; EDWARD POLLOCK, Acting Area Director of the Boston Office of HUD.

Counsel: [*1] Edward Barshak, Esq., Katherine McHugh, Esq., Sugarman, Rogers, Barshak & Cohen, 73 Tremont Street, Boston, 02109

Thomas I. Atkins, Esq., 10 Post Office Square, Boston, 02109

Lawyers Committee for Civil Rights, Alan Jay Rom, 294 Washington Street, Boston, for plaintiffs.

RICHARD GLOVSKY, Harify King & Glovsky, 79 Milk St., Boston, MA 02109

NOTICES TO: Harold J. Carroll, Esq., Assistant Corporation Counsel, City of Boston Law Department, City Hall, Boston, 02201, for defendants.

Opinion by: SKINNER

Opinion

ORDER ON MOTION FOR PRELIMINARY INJUNCTION

SKINNER, D.J.

Plaintiffs originally sought an injunction against the disbursement of current Urban Development Action Grants (UDAG) and Community Development Block Grants (CDBG) to the City of Boston, until the City complied with various conditions intended to insure minority participation in the benefits of these two programs. After argument, plaintiffs modified their request to require that a limitation imposed on the City by the defendants not be removed without an order of the court, after notice to the plaintiffs and submission by the defendants of their administrative record and any other pertinent material. The special condition [*2] imposed by the

defendants in September 1980 restricted the City to the expenditure of but 50% of its authorized CDBG without further written authorization from the defendants.

The basis of the plaintiffs' complaint is that the defendants have been lax in enforcing the conditions on the grant intended to protect minorities, which conditions are required to be imposed and enforced by the statutes governing CDBG. They say that in the sixth year of the CDBG program the City has yet to make substantial progress in alleviating the discrimination against minorities in housing, employment, and free access to all areas of the City; steps taken by the defendants have merely generated paper solutions rather than real ones, and even those have been less than required and tardily submitted.

My review of the documentation presented by the parties leads me to conclude that there is some ground for plaintiffs' complaint. I also conclude that the defendants are making serious, if not always effective, efforts to deal with the problem.

The City of Boston is a hard nut to crack. Racial prejudice is pervasive and there are segments of the population which have demonstrated active resistance [*3] to efforts to desegregate the City.

The optimal application and appropriate combination of carrot and stick to achieve the result mandated by Congress is a delicate matter. The best intended steps may exacerbate rather than alleviate racial tension. It is by no means clear that the gross remedies available through judicial intervention would have a positive effect, and indeed they might result in a net loss for the City's minorities. The defendants' personnel in the field are in a far better position to tailor remedial steps than is the court. If it were apparent that the defendants had totally abandoned their responsibility, or that their attempts at securing compliance were a sham, or arbitrary and capricious, the court would have no alternative to intervention as requested by the plaintiffs. I find on the contrary that the defendants are making an earnest effort to insure that the CDBG program is conditioned on benefit to minorities. The danger which I perceive from the documents submitted to me is that the defendants will

accept the spinning of bureaucratic wheels (e.g., the formation and staffing of committees and the proliferation of reports, demographic profiles, etc.) [*4] as the equivalent of forward motion. The defendants appear to be taking an increasingly tough position, however, and indeed some real progress has occurred.

I am not satisfied either

(1) that the defendants have so abandoned their obligations as to require judicial intervention, or

(2) that the remedies open to the court are likely to produce a better result than the steps presently being taken by the defendants.

Accordingly, I DENY the motion for a preliminary injunction.