

CLOSED

U.S. District Court
Southern District of New York (White Plains)
CIVIL DOCKET FOR CASE #: 7:01-cv-00364-CM

People of The State v. The Town of Wallkill
Assigned to: Judge Colleen McMahon
Demand: \$0
Cause: 42:1983 Civil Rights Act

Date Filed: 01/18/2001
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

**People of The State of New York, by
Eliot Spitzer, Attorney General of the
State of New York,**

represented by **Peter Pope**
Attorney General of the State of New York
120 Broadway
New York, NY 10271
(212) 416-8250
LEAD ATTORNEY

V.

Defendant

The Town of Wallkill

represented by **Monte J. Rosenstein**
Monte J. Rosenstein, PC
250 Crystal Run Rd., Po Boxc 2215
Middletown, NY 10940
(914) 692-8006
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Email: mjr@warwick.net
LEAD ATTORNEY

| Date Filed | # | Docket Text |
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| 01/18/2001 | 1 | COMPLAINT filed. Summons issued and Notice pursuant to 28 U.S.C. 636(c). FILING FEE \$ 150.00 RECEIPT # E394541. (ll) (Entered: 01/19/2001) |
| 01/18/2001 | | Magistrate Judge Lisa M. Smith is so Designated. (ll) (Entered: 01/19/2001) |
| 02/07/2001 | 2 | ANSWER to Complaint by The Town of Wallkill (Attorney Monte J. Rosenstein from the Firm: Monte J. Rosenstein, P.C.) . (pf) (Entered: 02/07/2001) |
| 02/13/2001 | 3 | RETURN OF SERVICE executed as to The Town of Wallkill by William P. Cullen on 1/18/01 . .Served Summons & Complaint by leaving with Mr. Thomas Nosworthy personally at Walkill Town Hall: 600 rte. 211, Middletown, NY 10940. (dc) (Entered: 02/14/2001) |

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| 02/13/2001 | 4 | CALENDAR NOTICE: Please take notice that the above captioned action has been scheduled for: Rule (16) Conference before the Honorable Colleen McMahon, USDJ, on thursday, March 1, 2001 at 10:00 a.m. in Courtroom 521, at the U.S. District Courthouse, 300 Quarropas Street, White Plains, Ny 10601. SO ORDERED: Colleen McMahon, U.S.D.J. (dcr) (Entered: 02/15/2001) |
| 02/22/2001 | 5 | Memo-Endorsement on letter addressed to USDJ McMahon from Lisa Landau, dated 2/16/01. Re: mutually agreeable discovery plan...ENDORSEMENT: Ms. Landau-This will require some discussion. I am not signing it today. I am not cancelling the March 1 conference either. So Ordered: (signed by Judge Colleen McMahon); Copies mailed. (pf) (Entered: 02/22/2001) |
| 03/08/2001 | 6 | MEMORANDUM OF LAW by The Town of Wallkill (dh) (Entered: 03/08/2001) |
| 03/20/2001 | 7 | DECISION AND ORDER DISMISSING DEFENDANT'S CHALLENGE TO SUBJECT MATTER JURISDICTION (On the facts here pleaded, the parens patriae remedy is more than merely appropriate; it is virtually compelled. For the foregoing reasons, I find that the Court does have jurisdiction to enter the proposed consent decree. I have several comments on the substance of teh decree, which will be forwarded to counsel for both sides under separate cover. So Ordered. dated 3/16/01.)(signed by Judge Colleen McMahon); Copies mailed. (kz) (Entered: 03/21/2001) |
| 03/29/2001 | 8 | Memorandum of the Hon. Colleen McMahon, U.S.D.J. addressed to All Counsel in People v. Wallkill....."The only change I want to make to the4 consent decree is to the provision about the appointment of the Federal monitor. The Court should be in charge of that process. Obviously, the names of serious candidates would be sent to both sides, in order to uncover any potential bias. But I continue to have problems with the selection mechanism to which you have agreed. With an appropriately worded change to that provision, I will sign the decree." (kz) (Entered: 03/30/2001) |
| 04/03/2001 | 9 | Memo-Endorsement on letter addressed to USDJ McMahon from Mark G. Peters, dated 4/3/01. Re: proposed consent decree...ENDORSEMENT: I made one little change and have signed both orders. So Ordered: (signed by Judge Colleen McMahon); Copies mailed. (pf) (Entered: 04/05/2001) |
| 04/05/2001 | 10 | Letter filed addressed to All COuncil from Judge McMahon, dated 04/05/01, re: The Consent Decree. (fk) (Entered: 04/09/2001) |
| 04/05/2001 | 11 | CONSENT Decree by People of The State, The Town of Wallkill (signed by USDJ McMahon) (fk) (Entered: 04/09/2001) |
| 04/05/2001 | 12 | Amendment to the Consent Decree(signed by USDJ McMahon) (fk) (Entered: 04/09/2001) |
| 04/25/2001 | 13 | NOTICE TO CANDIDATES FOR POSITION OF POLICE AUDITOR UNDER THE CONSENT DECREE...Enclosed you will find a consent decree (with amendment) pursuant to which the Court's Auditor will be appointed. I would appreciate it if you would review the consent decree and prepare (1) a brief description of the work required of the monitor, and (2) an estimated budget for same, including hours to be spent, jourly rates, and personnel to be utilized. I appreciate that the budget will likley be front end loaded, in that much more work |

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| | | will be required in the first year then in year four. It is my intention that the Auditor have input into the fashioning of the Best Practices Guidelines, and it is my preference that the Auditor be "hands-on", especially during the first two years of the consent Decree. (fk) (Entered: 04/26/2001) |
| 05/02/2001 | 14 | INTERIM ORDER APPOINTING POLICE ASSESMENT RESOURCE CENTER TO ASSIST IN THE MONITORING OF DEFENDANT'S POLICE DEPARTMENT. Accordingly, I hereby ORDER that the Police Assesment Resource Center (PACR) of the Vera Institute of Justice, 233 Broadway, NY, NY 10279, be appointed and retained to provide staff support and training in connection with the auditing function contemplated by the Consent Decree entered in this action on April 6, 2001; and I further ORDER: See Document for more details. ENDORSED: CM (signed by Judge Colleen McMahon); Copies mailed. (dc) (Entered: 05/03/2001) |
| 05/03/2001 | 15 | Transcript of record of proceedings before Judge Colleen McMahon for the date(s) of 3/1/01. Court Reporter: Christina Arends-Dieck (pf) (Entered: 05/03/2001) |
| 05/23/2001 | 16 | Letter filed by People of The State addressed to Judge McMahon from Mark Peters, dated 05/23/01, re: Consent to Amend Paragraph 56. (fk) (Entered: 05/24/2001) |
| 05/23/2001 | 17 | Letter filed addressed to All Counsel from USDJ Colleen McMahon, dated 5/22/01, re: I met today with Christopher Stone of the Vera Institute and Merrick Bobb, who is heading the newly-established Police Assessment Resource Center. They have assembled a list of seven potential candidates for the position of monitor in Wallkill. Resumes of all seven will be sent to you by the end of the week. If you object to any of the candidates, please convey your objection, and th ereason forit, to my attention(by fax, as usual) no later than noon on Monday, June 4, 2001..... (pf) (Entered: 05/29/2001) |
| 05/23/2001 | 18 | Letter filed by People of The State addressed to Mr. Rosenstein from Mark Peters, dated 05/21/01, re: Draft of the Best Practices Guideline. (fk) (Entered: 05/29/2001) |
| 05/30/2001 | 19 | Letter filed addressed to USDJ McMahon from Monte J. Rosenstein, dated 5/29/01, re: I have received the resumes of the proposed auditors, and the letter from Mark Peters, Esq. dated 5/29/01...On behalf of the Town of Wallkill, I would object to any calls to the candidates by the Atty General's Office... (pf) (Entered: 05/31/2001) |
| 05/30/2001 | 20 | Memo-Endorsement on letter addressed to USDJ McMahon from Mark G. Peters, dated 5/29/01. Re: ...OAG would like to call several of the candidates so as to obtaion additional information on how they would carry out their duties...ENDORsEMENT: I believe that issue is for me to decide. Please comment on the resumes and let me know what you find objectable if anything. There is no need to call the candidates. So Ordered:(signed by Judge Colleen McMahon); Copies mailed. (pf) (Entered: 05/31/2001) |
| 06/11/2001 | 21 | ORDER APPOINTING AUDITOR...Pursuant to Paragraph 55 of the Amended Consent Decree, the Court Appoints Dean M. Esserman to serve as auditor of the Town Of Wallkill Police Department for the duration of the Consent Decree....(see doc for details) So ORdered . (signed by Judge Colleen McMahon |

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| | |); Copies mailed. (fk) (Entered: 06/14/2001) |
| 06/13/2001 | 22 | MEMORANDUM ORDER: 1. The time for the Town of Walkill to comment on the best practices guidelines is extended to and including June 18, 2001. 2. The Plaintiff is directed to send a copy of the draft Best Practices Guidelines, as well as the comments on those Guidelines made by both sides, to the Auditor, and Merrick E. Bobb, at PARC. The Court will not sign off on the Best Practices Guidelines until Chief Esserman and Mr. Bobb have an opportunity to review and comment on the Guidelines. 3. All future correspondence in this matter, and all Court papers, are to be copied to the Auditor and to Mr. Bobb. SO ORDERED: (signed by Judge Colleen McMahon); Copies mailed. (dc) (Entered: 06/19/2001) |
| 07/23/2001 | 23 | SEALED DOCUMENT placed in vault. Monitor Materials enclosed. Log# 5204. Signed by Colleen McMahon, USDJ. (dc) (Entered: 07/24/2001) |
| 07/30/2001 | 24 | Letter filed addressed to Counsel from James F. O'Neill, Law Clerk to USDJ McMahon, dated 7/27/01, re: After consulting with the court appointed monitor, Dean Esserman, and PARC representative, Merrick Cobb, and after reviewing recent correspondence between the parties, Judge McMahon has called a pre-trial conference for 9/5/01 at 2:00 p.m. Representatives of the Walkill Town Board are required to be present at the conference(this is in addition to counsel). The Court encourages the parties to work between now and September in implementing the "Best Practices Guidelines." The Judge expects that the parties will have significant progress to report at the September conference.(signed: James F. O'Neill) (pf) (Entered: 08/01/2001) |
| 09/07/2001 | 25 | Town of Walkill Police Department Best Practices Guidelines (fk) (Entered: 09/10/2001) |
| 09/07/2001 | 26 | CONFIDENTIALITY ORDER: IT IS ORDERED THAT the office of the Attorney General shall turnover the investigation records to Douglas Soloman, Esq., labor counsel to the police dept. of the Town of Walkill, no later than Wednesday, 09/12/01 at 12 noon. The investigative records may be seen only by the Chief of Police of the Town of Walkill and Attorney Solomon and other memebts of his firm who are acting in the firm's capacity as labor counsel for the Police Dept; The investigative records may be used may used only in connection with internal Police Dept. personnel matter, including decision making concerning hiring, firing, promotion, transfer, and in disciplinary proceedings, and for no other purpose, pending further order of the Court. Nothing in this order shall preclude the Town of Walkill from applying to the Court for relief from this Order if it becomes necessary to disclose the investigative records in connection with any disciplinary proceeding or challenge to a Police Dept. Personnel action, and in connection with any such application, the Office of the Attorney General may argue for the imposition of additional confidentiality restrictions if disclosure is permitted; This Order shall be reviewed in one year and may be re-entered at that time if appropriate. SO ORDERED: (signed by Judge Colleen McMahon); Copies mailed. (dc) (Entered: 09/10/2001) |
| 02/25/2002 | 27 | AMENDMENT TO THE WALLKILL POLICE DEPARTMENT RULES AND REGULATIONS: Subject to the approval of the Court and the Court-appointed Auditor, the parties agree to the following amendment to the Rules, the following provision shall be added to immediately follow Rule 10.3.c.: See Document for |

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| | | details. SO ORDERED: (signed by Judge Colleen McMahon); Copies mailed. (dc) (Entered: 03/01/2002) |
| 03/18/2002 | 28 | AMENDMENT TO CONFIDENTIALITY ORDER OF 09/06/02: It is ORDERED that the investigative records generated by the Office of the Attorney General of the State of NY in connection with this matter, which were previously released to the Cheif of Police of the Town or Wallkill and his labor counsel, Douglas Solomon, Esq., may also be seen by Jacqueline Ricciani, and other members of her firm, who are acting in the firm's capacity as Town Attorney to the Town of Walkill. (signed by Judge Colleen McMahon); Copies mailed. (dc) (Entered: 03/19/2002) |
| 04/30/2002 | 29 | Transcript of record of proceedings before Judge Colleen McMahon for the date(s) of 3/12/02. (dh) (Entered: 04/30/2002) |
| 09/20/2002 | 30 | Memorandum to Docket Clerk: Court Reporter Sue Ghorayeb. Decision: Status Conference held. Next Status Conference to be held in 6 months. . (sv) (Entered: 09/23/2002) |
| 09/20/2002 | | Status Conference held before Judge Colleen McMahon . (sv) (Entered: 09/23/2002) |
| 07/31/2003 | 31 | ORDER;...NOW THEREFORE, subject to the approval of the Court and the Court-appointed Auditor, the parties agree to the followng amendments to the Rules: (see document for details). So Ordered . (signed by Judge Colleen McMahon); clk/m/cpys. (sv) (Entered: 08/04/2003) |
| 03/24/2004 | 32 | First Report of Monitor (January 2002). (fk,) (Entered: 03/26/2004) |
| 03/24/2004 | 33 | Second Report of Monitor (July 2002). (fk,) (Entered: 03/26/2004) |
| 03/24/2004 | 34 | Third Report of Monitor (February 2004). (fk,) (Entered: 03/26/2004) |
| 06/15/2004 | 35 | MEMORANDUM TO THE DOCKET CLERK: 06/15/04 - Parties Present. Court Reporter: Albi Gorn. Decision: Court holds conference to discuss the "Third Report of the Monitor." The matter is adjourned sine die until after the Monitor files his "Fourth Report," which is due sometime in the fall of 2004. Submitted by: Jim Oneill. (dcr,) (Entered: 06/17/2004) |
| 08/17/2004 | 36 | TRANSCRIPT of proceedings held on 06-14/04 before Judge Colleen McMahon.(cg,) (Entered: 08/18/2004) |
| 09/21/2004 | 37 | AMENDMENT TO CONSENT DECREE: NOW THEREFORE, subject to the approval of the Court and the Independent Auditor, and pursuant to Paragraph 83 of the Consent Decree, the parties agree to the following amendment to paragraph 72: 72. See document for details. SO ORDERED: (Signed by Judge Colleen McMahon on 09/20/04) Clerk's Office Mailed Copies..(dcr,) (Entered: 09/22/2004) |
| 03/22/2005 | 38 | FOURTH REPORT OF THE MONITOR, March, 2005, by Dean Esserman, Monitor. (ae,) (Entered: 03/23/2005) |
| 02/01/2006 | 39 | ENDORSED LETTER addressed to Judge Colleen McMahon from Joseph McKay dated 1/31/06 re: Conference set for 2/6/06. Endorsement: What I said is: The consent decree is extended until 2/6/06.. (Signed by Judge Colleen |

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| | | McMahon on 1/31/06) (fk,) (Entered: 02/02/2006) |
| 02/06/2006 | | MEMORANDUM TO THE DOCKET CLERK: 2/6/06- Court Reporter: Mary Staten. Parties present. Court holds final conference in this matter. Town of Wallkill is no longer bound b y the consent decree. The parties are to submit a final jgmnt within 14 days. The monitor's final report will be filed by the end of February. The Clerk of the Court is directed to close this case and remove it from the Court's docket. (pf,) (Entered: 02/07/2006) |
| 02/28/2006 | 40 | FINAL JUDGMENT...ORDERED, ADJUDGED AND DECREED:...This court ended its oversight with respect to the WPD on February 6, 2006, Defendant is permanently enjoined and required to comply with Section 6.2, 6.3, 6.4 and 8.1 of the Best Practices Guidelines adopted pursuant to this Court's Consent Decree and this case is hereby closed. (Signed by Judge Colleen McMahon on 02/28/2006) The Clerk's Office Has Mailed Copies.(gco,) (Entered: 02/28/2006) |
| 03/06/2006 | 41 | TRANSCRIPT of proceedings held on 02/06/2006 before Judge Colleen McMahon. Court Reporter: Mary M. Staten. (gco,) (Entered: 03/06/2006) |

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