



WILLIAM SEYMOUR/JONES v. ALAN J. LEFEBVRE, et al.

Civil Action No. 90-2267

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

1991 U.S. Dist. LEXIS 11886

August 22, 1991, Decided

August 22, 1991, Filed

COUNSEL: [*1] William Jones/Seymour, P.P., Graterford, Pennsylvania.

BILL BALDINI & W.C.A.U. (CBS INC.) BY: Ronald P. Schiller, esquire, Philadelphia, Pennsylvania, *ALAN J. LeFEBVRE*, BY: Denise A. Kuhn, esquire, OFFICE OF ATTORNEY GENERAL, Philadelphia, Pennsylvania, *CBS INC. AND BILL BALDINI*, BY: Madeleine Schachter, esquire, New York, New York, for Defendant.

JUDGES: Donald W. VanArtsdalen, Senior United States District Judge.

OPINION BY: VanARTSDALEN

OPINION

MEMORANDUM AND ORDER

Plaintiff, William Seymour/Jones (Jones), has filed a motion seeking reconsideration of the Order of August 12, 1991, denying his motion to file a supplemental complaint in this action. For the reasons discussed herein, I will deny the motion.

This action arose out of a news segment taped and broadcast on March 28, 1990 on WCAU-TV, concerning overcrowding at Graterford Prison. Jones, an inmate at

the prison, alleges that he was improperly photographed in connection with the news segment. Jones' proposed supplemental complaint concerned alleged improper conduct on the part of defendant Alan J. LeFebvre and other prison officials in denying Jones outside work clearance and pre-release home furlough status. Although these allegations [*2] might properly be the subject of a separate action, they are wholly unrelated to the facts underlying this action, and I therefore denied Jones' request to amend the complaint to include such allegations.

Jones now argues that in denying him leave to file an amended or supplemental complaint, I disregarded the provisions of *Rule 15 of the Federal Rules of Civil Procedure*. Specifically, Jones points to subsections (a), (c) and (d) of that Rule. Under *Rule 15(a)*, once a responsive pleading has been served, a party may amend its pleading only by leave of court. Although leave is to "be freely given when justice so requires," *Fed. R. Civ. P. 15(a)*, it may be denied when the amendment would involve prejudice to the opposing party. *Howze v. Jones & Laughlin Steel Corp.*, 750 F.2d 1208, 1212 (3d Cir. 1984). In this case, the proposed amendments involve more than additional related claims or legal theories, they concern only one of the three defendants, and are entirely new and separate claims based on unrelated facts and events. Moreover, they would involve additional discovery at a point when the discovery period has almost expired. ¹ Allowing the proposed amendments [*3]

would thus involve significant prejudice to the opposing parties, Jones's motion will therefore be denied.

1 All discovery in this matter is to be completed by September 13, 1991.

Jones' reliance on subsections (c) and (d) of *Rule 15* is also misplaced. *Rule 15(c)* involves relation back of a claim or defense asserted in an amended pleading that arose out of the same conduct, transaction or occurrence set forth in the original pleading. The claims contained in the proposed amendments do not arise out of the same conduct as those in the original complaint and *Rule 15(c)* is therefore inapplicable. Similarly, a motion seeking

leave to file a supplemental pleading under *Rule 15(d)* is properly denied where the claim asserted in the supplemental pleading is unrelated to the original pleading. 6a C. Wright and A. Miller, *Federal Practice and Procedure*, § 1510 at 208.

An order follows.

ORDER

For the reasons stated in the foregoing memorandum, it is ORDERED that plaintiff's motion for reconsideration is DENIED.