

NEW JERSEY 2013

LAW, JUSTICE AND PUBLIC SAFETY FACT SHEET

LAW

***Voting Rights Act of 1965** – In June, 2013, in *Shelby County v. Holder*, No. 12-96, the U.S. Supreme Court, in a 5-4 decision, ruled that Section 4 of the Voting Rights Act (“VRA”) was unconstitutional. The U.S. Congress voted to reauthorize the Voting Rights Act for twenty-five years in 2006 after unprecedented hearings with extensive documentation demonstrating continuing discrimination and efforts to deter voting rights. Section 4 of the VRA contained the coverage formula of states, counties and other localities which were required to submit any changes in voting laws (such as moving a polling place or redistricting maps) to the U.S. Justice Department or to a three-judge federal court for approval prior to any implementation. Section 5 of the VRA mandated the “pre-clearance” provision by the jurisdictions listed in the formula contained in Section 4, which formula was first adopted in 1965 and updated by Congress in 1975.

While Section 5 was not struck down by the Court, it was effectively eliminated because there are now no states or other jurisdictions to which Section 5 can implement enforcement. Section 4 “...applied to nine states — Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas and Virginia — and to scores of counties and municipalities in other states, including Brooklyn, Manhattan and the Bronx.”¹

It is now up to Congress to pass a new coverage formula for Section 4, but given the partisan gridlock in Congress, this appears an insurmountable task. In the interim, the U.S. Justice Department has begun to take action under the remaining provisions of the VRA (such as Section 3, which permits a federal judge to require a jurisdiction to pre-clear changes to voting laws for a specified period of time, called the “opt-in” provision) to challenge changes to voting laws which are discriminatory and will deter voting by racial minorities, Latinos and others.

* **Mount Holly, NJ v. Mt. Holly Gardens Citizens**, No. 11-1507 – This term the U.S. Supreme Court will hear oral argument and decide whether, “[t]he Fair Housing Act makes it unlawful ‘[t]o refuse to sell or rent after the making of a bona fide offer . . . or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.’ 42 U.S.C. §3604 (a). Reversing the District Court's decision, the Third Circuit found that the Respondents presented a prima facie case under the Fair Housing Act because Petitioners sought to redevelop a blighted housing development that was disproportionately occupied by low and moderate income minorities and because the redevelopment sought to replace the blighted housing with new market rate housing which was unaffordable to the current residents within the

¹ *Supreme Court Invalidates Key Part of Voting Rights Act*, by Adam Liptak, New York Times, June 25, 2013, <http://www.nytimes.com/2013/06/26/us/supreme-court-ruling.html?hp>

blighted area. The Third Circuit found that a prima facie case had been made despite the fact that there was no evidence of discriminatory intent and no segregative effect.”²

The Court will consider the following question: Are disparate impact claims cognizable under the Fair Housing Act?

“The Gardens is a low-income neighborhood in the Township of Mount Holly, New Jersey. African American and Hispanic residents made up most of the occupants of the neighborhood’s 329 homes. Problems relating to crowding, vacant properties, and crime have long plagued the Gardens. Shortly after designating the area “in need of development” in 2000, the Township began acquiring properties and instituted a series of redevelopment plans over the next several years. Each plan called for the demolition of most, if not all, of the original homes in the neighborhood and the construction of new, more expensive homes in their place. The number and type of affordable-housing units available to existing Gardens residents varied in each plan.

In 2003, Citizens in Action sued the Township in state court and alleged violations of New Jersey redevelopment and antidiscrimination laws. The court dismissed some of their claims and granted summary judgment in favor of the Township on other claims. Mt. Holly Gardens Citizens in Action and a number of current and former Gardens residents sued in federal court in 2008 and argued that the Township’s actions violated the Fair Housing Act (FHA) and other federal antidiscrimination laws. The FHA makes it unlawful to “refuse to sell or rent . . . or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.” The court granted summary judgment in favor of the Township by ruling that the plaintiffs had failed to show that the plans had a racially disparate impact under the FHA. The U.S. Court of Appeals for the Third Circuit reversed and held that the plaintiffs had indeed presented a prima facie case of discrimination and that material questions of fact relating to less discriminatory alternatives available to the Township remained open.”³

***Affirmative Action in Higher Education** - Schuette, Attorney General of Michigan v. Coalition to Defend Affirmative Action, Integration and Immigrant Rights and Fight for Equality By Any Means Necessary (BAMN), et al., No. 12-682.

The U.S. Supreme Court this term will decide “Whether a state violates the Equal Protection Clause by amending its constitution to prohibit race and sex-based discrimination or preferential treatment in public-university admissions decisions.”

The decision in this case will have broad implications, including in New Jersey, for the continued use of affirmative action in higher education and the ability of African-American and Latino students to gain access to more affordable college opportunities in public universities.

² Docket of Mount Holly, NJ v. Mt. Holly Gardens Citizens, No. 11-1507, <http://www.supremecourt.gov/qp/11-01507qp.pdf>

³ MOUNT HOLLY v. MT. HOLLY GARDENS CITIZENS IN ACTION, INC., Facts of the Case, OYEZ, http://www.oyez.org/cases/2010-2019/2013/2013_11_1507

JUSTICE

***Appointments to the New Jersey Supreme Court** – Beginning with Governor Chris Christie’s denial of re-appointment and, thus, tenure to NJ Supreme Court Justice John Wallace, Jr., the Court’s only African-American on the Supreme Court bench, the Governor has waged war on the independence of the judiciary, a hallmark of New Jersey’s Constitution adopted in 1947. Currently, there are no African-Americans or other persons of color on the New Jersey Supreme Court. The Governor’s stated intention is to re-make the Court into one more of his ideological leanings. The Governor’s actions have had a chilling effect not just on the Supreme Court, where he also recently denied reappointment to Justice Helen Hoens, a Republican, but also to members of the Judiciary at the trial and appellate levels.

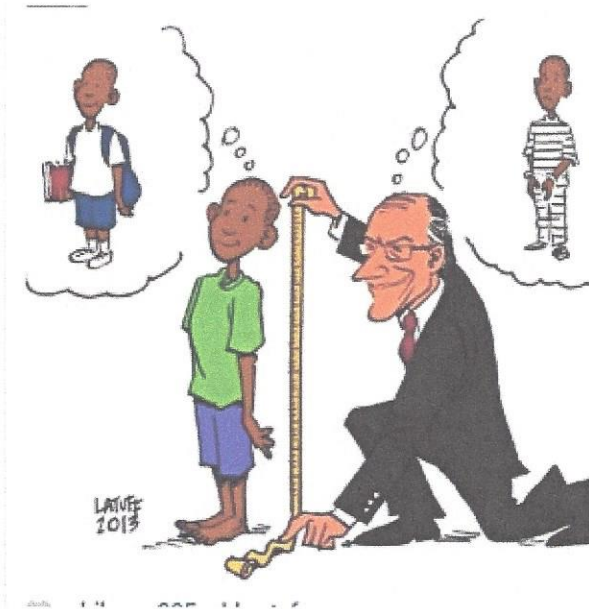
***Vacancies on the Superior Court Bench** – There are numerous vacancies on the Superior Court of New Jersey in many counties across the state. Indeed, in Essex County, the vacancies were so significant that last year the Assignment Judge declared a judicial emergency and stopped certain civil trials from proceedings which is tantamount to the sentiment, “justice delayed is justice denied.”

Further, there continues to be a dearth of minority representation on the bench overall which erodes public confidence in the courts and the judicial system.

***Prisoners** – There are a number of issues which need to be addressed due to the disproportionate number of African-American and Latino males incarcerated:

- *Lack of re-entry programs for released prisoners
- *Conviction as a barrier to holding a state license for various trades
- *Lack of resources available for legal aid societies to assist ex-prisoners in expunging convictions, where applicable
- *Inflated inmate telephone charges which result in the inability of families to stay in touch with prisoners, thus, effectively denying prisoners the connection with community essential to rehabilitation

*School to Prison Pipeline targeted at African-American and Latino children as young as kindergarten



If cartoons make things more real..... #EndingSchooltoPrisonPipeline #YouthUnchained
#MTazamoArtsProgram

PUBLIC SAFETY

***New Jersey State Police** – A recent report from the NJ Attorney General’s Office, assessing the behavior of state police on patrol and making traffic stops for the first half of 2012, determined that “...State Police failed to identify mistakes by troopers ranging from excessive force to improper vehicle searches in nearly a third of the 155 stops they were required to examine.”⁴

Moreover, according to The Star-Ledger, the Attorney General’s office permitted State Police supervisors to reduce the number of stops they monitored and reviewed; the report cited the use of police dogs on a disproportionate number of black drivers, failure to issue Miranda warnings to suspects and failure to properly activate and store recordings from patrol car cameras.

The findings were released online last month by the Office of Law Enforcement Professional Standards, which was created to ensure the State Police followed its own rules after federal authorities stopped monitoring the division in 2009 because of illegal racial profiling.

⁴ *N.J. State Police failing to catch too many mistakes by troopers on the road, watchdog report says*, by Christopher Baxter, The Star-Ledger, August 25, 2013, http://www.nj.com/politics/index.ssf/2013/08/watchdog_nj_state_police_failing_to_catch_too_many_mistakes_by_troopers_on_the_road.html.

The Star-Ledger article and Office of Law Enforcement Professional Standards report can be accessed by clicking the link below.

***Elimination or consolidation of police forces in cities** – The City of Camden has no police force. The police force was eliminated as a result of labor disputes between the FOP and City , and, effective May 1, 2013, the County of Camden supplies police to patrol the City of Camden with mixed reactions from the citizenry. According to the Philadelphia Inquirer, “It has been concentrated in the Parkside and Fairview neighborhoods and has drawn mixed reactions from residents. Some say their neighborhoods appear to be safer. Others accuse the officers of being too aggressive in handing out tickets for relatively minor offenses.”⁵

Now, some are proposing that the City of Trenton eliminate its police force in light of high homicide rates and have a county police force patrol its streets. Concern exists that the situations between the two cities are not similar and that funding is being withheld from Trenton to hire additional needed police officers because of the pending charges against Trenton’s mayor.

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⁵ *Record 32d Trenton homicide prompts Camden parallels*, by Jonathan Lai and Darran Simon, Philadelphia Inquirer, August 30, 2013, http://www.philly.com/philly/news/local/20130830_Record_32d_Trenton_homicide_prompts_Camden_parallel.html#FZI0ilk_aZO4QWz1y.99