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SID J. WHITE

MAR 3 1993

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

IN FLORIDA SUPREME COURT

BERNARD J. PENN,
Intervenor-Appellant

Case 81201

vs.

FLORIDA DEFENSE FINANCE CENTER
AUTHORITY, Plaintiff-
Appellee

VS. STATE OF FLORIDA, and
All Taxpayers and Property
therein, Defendants

APPELLANT'S INITIAL BRIEF

(originally w/o exhibits, Mar.2,1993)

Attorneys for Plaintiff

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Appellant:

Bernard J. Penn
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ISSUES NO. I

In the Assistant State Attorney's ANSWER filed December 30, 1992 which was PREPARED by the Plaintiff's and Escambia County's Bond-Issue Attorney at Law, LKL December 8, 1992, to be filed in Court by the statutory-mandated Defendant, STATE OF FLORIDA, It is alleged:

"2!The State of Florida, through its undersigned State Attorney, denies that this Court has jurisdiction or venue, in that Chapter 163, Part I, Florida Statutes, requires that validation proceedings for the Plaintiff's Bonds be instituted in Leon County."

The Appellant respectfully asks this Florida Supreme Court and the Justices thereof to take Judicial-Notice of the fact that the validation of the \$100,000,000 bonds which were created by Interlocal Agreement between City and a County of Escambia, that said Plaintiff, Florida Defense Finance and Accounting Service Center Authority, was created thereby, and has attempted to have Bonds validated by case filed in Escambia County Circuit Court, Case No. 92-5672; Proceedings were not begun in Leon County, But in Escambia County contrary to State Attorney's interpretation of law.

ISSUE NO. 2

Your Intervenor-Appellant respectfully shows: The Circuit Court of Escambia County, Florida, did not have Jurisdiction of this cause at 8:00 A.M., January 4, 1993 because Florida Statutes 75.06. Publication of notice:

"75.06 Publication of Notice.--

(1) Before the date set for hearing, the clerk shall publish a copy of the order in the county where the complaint is filed, and if plaintiff is a municipality or district in more than one county, then in each county, once each week for 3 consecutive weeks, commencing with the first publication, which shall not be less than 20 days before the date set for hearing but if there is a newspaper published in the territory to be affected by the issuance of the bonds or certificates..."

"By this publication all property owners, taxpayers, citizens, and others having or claiming any right, title or interest in the county..., or the taxable property therein, are made parties defendant to the action, as if named as defendants in the complaint and personally served with process.

"(2) In actions to validated the bonds of state agencies, commissions or departments, the order shall be published in the same manner in a newspaper in each of the counties where the proceeds of bonds are to be expended, and in a newspaper published in the county in which the seat of state government is located if the action brought therein.

The above statute 75.06 (1) has to be interpreted with Florida Rules of Civil Procedure No. 1.090: TIME:

"RULE 1.090 TIME. (a) Computation. In computing any period of time prescribed or allowed by these rules, by order of court or by any applicable statute, the day of the act, event or default from which the designated period of time begins to run shall Not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday."

The legal advertisement notifying Taxpayers and Citizens, containing the Show Cause Order of the Circuit Judge, run first time on December 14, 1992, a Monday; the 15th was therefore day One (1):

Sun	Mon.	Tnes	Wed	Th	Fri	Sat.	
Dec.	14	15	16	17	18	19	date
		1	2	3	4	5	days run.
20	21	22	23	24	25	26	
6	7	8	9	10	11	12	
27	28	29	30	31	1	2	
13	14	15	16	17	18	19	
3	4 Jan.						

ISSUE NO. 2 continued:

Since the end of Monday, January 4, 1993 had not arrived, that day cannot be counted under Florida Rule of Civil Procedure 1.090 TIME. Thursday, December 31, 1992 is the last day that can be counted (and all business activity had in fact stopped in preparation for merriment); THEREFORE, only seventeen (17) days had elapsed, and Therefore, the Court did not have jurisdiction.of the parties or the subject-matter under generally accepted judicial procedure.

ISSUE NO. 3

The Intervenor-Appellant respectfully shows:

1. The SECRECY with which the Bond Underwriters, Committee of 100, City Council, and the County Commissioners organized and formed the Plaintiff, composed of mostly unelected officials with Conflicting Interests to those of the Taxpayers, Elderly, and Those needing jobs and reasonable wages, Should be considered by members of The Court prior to Excusing Issue No.2.
2. Likewise, the EMERGENCY with which the City Council, and The County Commission described Ordinance 38-92 and Ordinance 92-45, has never been explained to the Public, and the Taxpayers, and the persons who~~x~~ will be getting bureaucratically inspired tax-bills, Should be Considered.
3. The FINDINGS AND DECLARATION OF NECESSITY of both City and County are exactly alike, prepared December 04 and Revised Dec.09 and 10,1992 were ORDAINED, 1 $\frac{1}{4}$ pages each; AND do not describe the Causes of residents' problems, or the Solutions. Governments, regulations, authorized slavery, and governments are still in slavery-business by moneterly inflation and restrictions on behavior. One person can be Microism of All subjected Citizens. Nothing Good can come out of \$100,000,000 Bond issue for Tax-payers to pay, and the Banks-Super Rich to pick up Interest Income not subject to federal income tax. Issue No. 2 Should not be Excused.

ISSUE NO. 4

Your Intervenor-Appellant respectfully shows: That the validation of the Bonds in question are contrary to Constitution of the State of Florida, 1987 edition, Article VII SECTION 12:

"SECTION 12. Local Bonds.--Counties, school districts, municipalities, special districts and local governmental bodies with taxing powers may issue bonds, certificates of indebtedness or any form of tax anticipation certificates, payable from ad valorem taxation and maturing more than twelve months after issuance only:
(a) to finance or refinance capital projects authorized by law and only when approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation, or
(b) to refund outstanding bonds and interest and redemption premium thereon at a lower net average interest cost rate."

1. These Bonds will be payable from ad valorem taxation receipts, as the Exhibits to Complaint call for pledging the Increase in ad valorem tax receipts over the prior year to the repayment of Bonds, calling this "tax increment financing".

2. The Documents filed in Circuit Court by plaintiff shows that the County and the City Will pay the principal and interest on the Bonds from Ad Valorem Taxes if the "Tax Increment Financing" is not adequate to cover the obligation.

3. Section (a) limits bond-issues to only "finance or refinance capital projects" "authorized by law", "only when approved by vote of the electors".

The Plaintiff does not claim to engaged in "a capital project", But is trying to validate-bonds to build a building or facility on U.S.Government land, to be used by Department of Defense as a payroll center. The announced intention is to Increase Tax Base, and initially get 4,000 jobs and families transferred from elsewhere to Pensacola, who own homes elsewhere and have families, relatives, pets, and possessions close to Civil Service jobs "averaging \$35,000 per year".

Issue No. 4 continued

The bonds of the plaintiff, subject to this action, is not "authorized by law". When Section 12 of Florida Constitution (Article VII) was passed, there was no Chapter 163 in existence, Therefore, until that section is amended, The Reading of the section, and the former Appellate decisions, would still be deemed to be controlling law, constitutional law.

There has been no "vote of the electors" as to whether these Bonds should be issued (binding all land in county). There has been no Referandum election called for or held by either government to determine whether Bonds should be issued. The plaintiff called the bonds "Revenue Bonds" for sole purpose of avoiding referendum on the Bond-issue.

Since there has been No Referendum of the Electors prior to or in connection with this Validation proceeding, and the Bonds are to be paid from Ad Valorem Taxes even though called tax-increment proceeds, the Members of this Supreme Court should Reverse decision of Escambia County Circuit Court.

ISSUE NO. 5

In Assistant State Attorney's ANSWER to complaint, per Para. 5, He stated "that the Bonds are invalid in that the Interlocal Agreement pursuant to which Plaintiff was created is invalid and contrary to Florida law." The Intervenor-Appellant alleges and would show But for research involved: That the statute 163. of Florida Law violates the Common Law in force July 4, 1776, 217 years ago, as it covered 65 pages in 1987 Statutes, entitled "Governmental Programs". These provisions are a form and substance of slavery and destroying the dignity of men and women. This law in effect takes away the Ten Commandments and substitutes what some bureaucrat announces to comply with lobbyist or City Manager dictates. The Statute violates the Florida Constitution and the 5th and 14th Amendments of U. S. Constitution by taking away property and individual rights without due-process of law.

ISSUE NO. 6

Your Intervenor-Appellant respectfully shows That: Chapter 75 Bond Validation Florida Statutes does not allow enough time between decision of the County or City to issue Bonds, and the Time set for Final Hearing thereon, in Order to comply with due-process under State and Federal Constitutions, and the decisions thereon. The Statute calls for Twenty (20) days to elapse between first publication and the Show Cause date, usually the day of Final Hearing. This validation in particular ran from December 14 to January 4, 1993 when the Electors and Public had everything on their minds But a bond-issue. Most all heard that there was to be 4,000 new jobs created and coming to area; But none heard that the \$100,000,000 bond-issue was going to be a Lien on all property in County except for "Downtown Business District"; and that if some President of United States wanted to close the Facility on Corry Field (Payroll Center), He could move everyone to Arkansas, Tennessee, or California---As President Johnson closed Brookley Air Base, Mobile, Ala. in 1965 (because Ala. supported Goldwater in 1964--or someone threw tomatoes on Lady Bird Johnson).

The Past is our best guide to the future. That If U.S. closed or moved Facility, or Changed Technology of Payroll distribution, There would be NO Workers to get "taxed on \$100,000 homes".

That the Issues have been misrepresented to the Taxpayers by the Bond Merchants, New Car Dealers, Bankers, Hospitals, and Attorneys for plaintiff, and the Plaintiff, with two or three articles in Newspaper each day to detract from Public awakening as to magnitude and consequences of allowing a Bond-issue regressive taxation, when the United States (U.S.) can appropriate, borrow, or print-money with which to Build Their Own Building, their Payroll Center, on their own 84 acre site in southeast corner of Corry Station, Pensacola.

ISSUE NO. 7

Intervenor-Appellant respectfully shows: There has been a series of odd and bizarre events centering around the court proceedings in this Validation Proceeding:

1. The Circuit Judge at the final hearing refused to let Intervenor testify or contest the validation proceeding by stating according to two third-party affidavits:

"Who are you?"	PENN: I am Bernard Penn, Intervenor.
"There are no Intervenor's"	
"You cannot contest bond validation because you did not file 'Petition to Intervene'"	" Where is the Court Reporter?"
"There is none."	" I don't need Petition to Intervene."
"You are out-of-order. SIT DOWN" (Judge's bailiff moved toward Penn) (Penn had to sit down and be quiet)	

2. The Two plaintiff's attorneys and Asst. State Attorney Peter Williams, All were under obligation to their clients to have determined Why Penn thought he was Intervenor, and Have insisted that Judge let him testify, contradict, cross-examine, etc., and then be ruled against in an unreported hearing. The attorneys were relying too much on Judge. Why?

3. The Asst. State Attorney prepared what appeared to be a good ANSWER but the document was typed for Plaintiff's attorneys nearly a month prior, And the Asst. State Attorney only asked plaintiff's witnesses several minor questions on cross-examination; and presented no witness for State or Taxpayers which he was obligated to defend per Chapter 75.05 Florida Statutes.

4. The Circuit Judge continued to cooperate with plaintiff's attorneys in their arguments and allegations that Intervenor was delaying, filing frivolous pleadings and allegations without either privately instructing as to a better approach; Appellant had too much to do without this litigation.

5. WHEREFORE, the Validation should be reversed and sent back for rehearing.

ISSUE NO. 8

Intervenor-Appellant respectfully shows:

That Article I Section 8 of United States Constitution states:

"Section 8. The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general welfare of the United States, but all Duties, imposts and Excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate Commerce with foreign nations, and among the several states, and with Indian tribes.

....

"To raise and support armies, but no appropriation of Money to that use shall be for a longer Term than Two Years.

To provide and maintain a Navy.

To make Rules for the Government and Regulation of the land and naval Forces;

....

To provide for organizing, arming and disciplining the Militia...

... To make all Laws which shall be necessary and proper for the carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or any Department of Officer thereof.

That the County of Escambia does not have a legal right or obligation to enter into contract with U. S. Department of Defense allowing County with nominal assistance from City of Pensacola to take on responsibility of building a Facility with an estimated present cost of \$85,000,000. This is contrary to Right of federal government; and there are 1000's of cases reported in Federal Digests stating that it is extremely hard and unlikely that U.S. can be bound to a contract "lasting over Two Years" per above constitutional provision.

WHEREFORE, The Bond Validation should be Reversed.

That appellant has worked All Day March 2,1993 and has been incapacitated by Plaintiff-Appellee's Motions since January 13,1993.

Appellant prays for Additional Time to Add to this "Brief" the other parts ordered by Appellate Rules.

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

CASE 92-5672 CA 01

FLORIDA DEFENSE FINANCE AND ACCOUNTING SERVICE CENTER, INC.
a public instrumentality,

plaintiff

vs.

THE STATE OF FLORIDA, and the Taxpayers, Property Owners, and Citizens of
the City of Pensacola, and Escambia County, including non-residents, etc.

AFFIDAVIT RE: COURT & PENN STATEMENTS ON JAN. 4, 1993 8:00 A.M. AT FINAL HEARING.

STATE OF FLORIDA, COUNTY OF ESCAMBIA:

BILL DAVISON, being first duly sworn, says he was present in the court room 501
in Judicial Bldg. at 8:00 A.M. on January 4, 1993, and heard the following
conversations:

1. JUDGE MICHAEL JONES: Mr. Lott, proceed with your case.
2. BERNARD PENN, Intervenor: Judge...
3. JUDGE: Who are you?
4. PENN: I am Bernard Penn, Intervenor
5. JUDGE: There are no intervenors. You cannot contest the bond validation
because you did not file a "Petition to Intervene".
6. PENN: Judge, Where is the court reporter?
7. JUDGE: There is none.
8. PENN: I don't need a Petition to Intervene.
9. JUDGE: You are out of order. Sit down.
10. Judge Jones' bailiff prepared to enforce Sit Down order.
11. Penn had to sit down and be quiet.



BILL DAVISON

Subscribed and sworn to before me this 12th day of January 1993. Florida Drivers License



Notary Public,
My commission expires 4/28/93.
Attach seal.