

Notes from recordings of conversation re PIO case 87-3085  
11/30/87

Judge: Hello.

Mr. Shapiro: Good morning, Judge.

Judge: Hi Steve.

Ms. Reich: Sharon Reich on the line also.

Judge: Thank you Ms. Reich. I going to record this because I don't have a Court Reporter. I just left Court - she's at lunch someplace.

Mr. Shapiro: That's fine Judge. I was just calling you about, after our conversation on Friday to say that I had consulted with Mr. Redman and that the youngster who -- gave me the information on the unincorporated association that we will admit it's an unincorporated association in our statement of material facts.

Judge: Well, if it's an unincorporated association where does that leave us as a matter of law, have you or Ms. Reich had an opportunity to think that through.

Mr. Shapiro: I have, your Honor, and I think that under Rule 17(d) of the Federal Rules a party has capacity to sue - a federal right to suing is his own prerogative, it's not a representational -- standing its asserting its own standing as an unincorporated association to continue to do what it has done under the First Amendment, and I think that has full --- under the Federal Rules and standing under the Supreme Court decision ----.

Judge: Alright, I don't know. Who belongs to it.

Mr. Shapiro: It's not a membership association, your Honor. I do not believe that is necessary that - it's a definite, commonly accepted definition, at least so far as I was able to find in researching an unincorporated association, --- issues come together to pursue a common goal or objective.

Judge: I see.

Mr. Shapiro: It is-----for people who work at the Palestine Information Office and I think therefore for Rule 17(b) purposes they qualify as an unincorporated association with standing to file this suit.

Judge: Let me just ask you to hold on a minute. I grabbing my rules, trying to anyhow. 17(b) as in boy-

Mr. Shapiro: Yes, your Honor.

Judge: Well I guess he's probably right on the face of the Rule under 17(b), Ms. Reich. That's not a ruling, I'm just glancing at it.

Ms. Reich: Right - and this is

Judge: Even though an unincorporated association may not be able to sue under District of Columbia law for common law privileges, or purposes, if a suit has been brought against it, or it asserts a right against somebody else under the constitutional laws of the United States, I guess it could sue or be sued, is that your position, Mr. Shapiro?

Mr. Shapiro: Yes, that's my understanding of the Rule your Honor and the case law interpreting it.

Judge: I don't know. It's been a long time since I have looked into it.

Mr. Shapiro: I do think, your Honor, just as - let me say two other things - one was I have had a brief conversation with Ms. Reich earlier about how we were going, which I notified her so she heard this only a little bit before you in fairness to her, but I do think just in order to complete the record what we should do is amend the complaint and statement --- counsel's statement of material facts so that we'll ----- on the record on that point.

Judge: Alright. What I've been doing, I'll say to you Stephen and you Ms. Reich, is to go ahead, and I'm in the process of writing, in fact I've been writing yesterday and today, and I have a clerk in the library now doing some discrete research on two or three problems I brought him this morning, based on what appears to be undisputed in the pleadings and papers that have been submitted to me, and I must tell you up to this point I have not utilized, even though I know you did it at great effort, but I will use them, the statements each side presented with respect to what they regard as undisputed facts. I have merely taken what I believe to be undisputed from the pleadings thus far.

Mr. Shapiro: There is one other scheduling thing that you had raised on Friday, and that is do you want to see us again and, if so, is it tomorrow, or do you not think that is necessary?



Judge: Well, I've been on the bench all morning. I haven't seen my law clerk since early this morning. I told him not to come back until he got the answers, so he must not have gotten all the answers to the things I wanted, and I just ate a sandwich here at my desk, I'm getting ready to do some other things, and find out where this is, and some other cases. I don't know the answer to that. If I do have one it will be tomorrow afternoon. I understood you to say Tuesday Stephen, that your'e going to be before Judge Harold Greene,

Mr. Shapiro: Judge Greene at 10 a.m.

Judge: Is is Harold Greene, June Green or Joyce Green?

Mr. Shapiro: Harold.

Judge: You say 10?

Mr. Shapiro: At 10 a.m., yes.

Judge: Well, if I would want to see you, it certainly would be tomorrow afternoon.

Mr. Shapiro: Well that will be fine, and we'll just wait to hear from you.

Judge: Why don't you do this - Why don't I ask - I'm just thinking out loud. After you finish with Judge Greene, why don't you call Joe Burgess, my courtroom clerk, and I'll let him know if I need you.

Mr. Shapiro: What is his number, your Honor.

Judge: Oh gosh, just a minute. 535-3553. Do you have any idea when you'll be finished with Judge Greene?

Mr. Shapiro: No, I don't know if this is one of those things where, you know, a lot of people have been scheduled for motions at 10 or whether that's really a firm time. It's just a status conference so it's not going to take very long once we get there.

Judge: Well the odds are, I won't know right off in the morning. Would you plan to normally, but for this, go right back to New York?

Mr. Shapiro: No, actually I have to stay around, so that's not a problem for me. We have an office in Washington and I

can actually stay there and do some work, so I will check in,

Judge: Well, why don't you do this. Why don't you go to your office in Washington, wherever that is, and then I can call you as soon as I know. Where is that?

Mr. Shapiro: 544-1681.

Judge: 1681?

Mr. Shapiro: That's correct.

Judge: OK.

Mr. Shapiro: Well why don't we do this. I'll check with Mr. Burgess. If there's an answer, fine. If there is no answer, I'll go to the office and wait for you to call.

Judge: Alright fine. Ms. Reich -- do you have any questions.

Ms. Reich: No, I don't your Honor. I'll just wait also.

Judge: Alright, fine. Well thank you both very much and I appreciate your calling.

Mr. Shapiro: Thank you your Honor.

Judge: OK. Bye.

Judge: Alright, I don't know. Who belongs to it? It's a membership association, your Honor. I do not believe that is necessary at all. It's a certain, or only accepts, definite... at least as far as I know, it's a fine... regarding... operator... issues... error... directive.

Judge: ... information... for... incorporated... with...