

Supreme Court

State	:	No. 2008-36-C.A.
		No. 2008-38-M.P.
		(PM 07-6114)
v.	:	
John Doe et al.	:	

ORDER

This case came before the Supreme Court on May 13, 2008, on an appeal and a petition for writ of certiorari, in connection with State v. Greenberg, No. 2008-38-M.P. (Greenberg), a case that was consolidated with this case and with Chartier v. State, No. 2008-6-M.P., and State v. Chartier, No. 2007-371-M.P. (Chartier), a decision from the District Court that concerned similar issues. On February 28, 2008, this Court issued an order granting the above-referenced petition for certiorari and consolidating these proceedings. Further, we granted the state's motion to expedite these cases and assigned the case to the May 13, 2008 calendar for oral argument.

On July 10, 2008, this Court issued its decision in Greenberg and Chartier and vacated the order consolidating the instant case. See State v. Greenberg, 951 A.2d 481 (R.I. 2008). The parties were directed to show cause why the case should not be dismissed for failure to present an actual case or controversy. After reviewing the memoranda of the parties, we are satisfied that cause has not been shown. Accordingly, the appeal is denied, the petition for writ of certiorari is quashed, and the case is remanded to the Superior Court.

This controversy arose from legislative amendments to the jurisdictional authority of the Family Court over persons seventeen years of age or older who were accused of committing acts that would be felony or misdemeanor crimes if committed by an adult. As a budgetary measure, the General Assembly declared that persons seventeen years of age or older shall be referred to the court that would have jurisdiction if the offense were committed by an adult. Soon thereafter, the General Assembly enacted legislation purporting to repeal the budgetary measure, but it failed to address the status of those juveniles who were arrested and prosecuted during the interregnum.

As noted, the cases which challenged these amendments were filed in the trial courts and were adjudicated in an expedited manner. However, after this Court heard the oral arguments of the parties, questions about the justiciability of the instant case arose such that a decision on the merits was impracticable. Although characterized as a civil action and classified as a miscellaneous petition, there was no civil complaint or other claim for relief before the trial justice or this Court.

The record discloses that on November 14, 2007, the Public Defender for the State of Rhode Island filed a miscellaneous petition entitled “Motion to Dismiss or, Failing Dismissal, to Transfer Jurisdiction” (motion). The motion identified the case as State v. John Doe, PM 07-6114, and it was accompanied by a civil case cover sheet that described the subject matter of the miscellaneous petition as “other.” This motion was purportedly filed by defendant, “on and behalf of himself and all others similarly situated.” The Rhode Island Public Defender declared that, in the interest of justice, the motion was filed “on behalf of its own [S]uperior [C]ourt clients as well as all those to whom it would apply who may be unrepresented by other counsel.” According to

counsel, the motion “would apply to any defendant who, in a pending case, is alleged to have committed an offense while under the age of eighteen (18), unless such case has been waived into the criminal courts by virtue of G.L. [1956 §] 14-1-7.1.”

On December 28, 2007, the Presiding Justice of the Superior Court issued Administrative Order No. 2007-18, in which he referred this case and the motion to dismiss in State v. Greenberg to the trial justice, who issued a comprehensive decision on February 5, 2008 and entered an order on February 26, 2008.

The order entered by the trial justice provided that “the criminal complaints and criminal informations filed in the Superior Court in the above-captioned matters shall be dismissed; and * * * the criminal indictments filed in the Superior Court in the above-captioned matters shall be [placed] in abeyance pending a hearing in Family Court.”

As noted, on July 10, 2008, this Court issued its decision in Greenberg; we vacated the order of consolidation and directed the parties to show cause why the appeal should not be dismissed.

In their memoranda in response to the order to show cause, the parties contend that this case is not a civil action after all, but is rather a criminal case that arose as a single motion to dismiss with a “John Doe” appellation filed “in the ordinary pretrial course of a criminal case[.]” Although we recognize the seriousness of the issues presented by the short-lived jurisdictional amendment and we commend counsel and the trial justice for their efforts on behalf of juveniles accused of criminal behavior, as well as the expeditious handling of this controversy, we are persuaded that this appeal is not properly before the Court.

The parties candidly acknowledge that “John Doe,” who was identified as the aggrieved party in this case, is not a real person; nor is there a corresponding criminal information or indictment which could otherwise establish the requisite subject-matter jurisdiction upon which a motion to dismiss may be decided. Significantly, the record before us is devoid of any indictment or criminal information upon which the order of dismissal may rest. Further, a list of names appended to an omnibus motion to dismiss or transfer jurisdiction does not alter the result in this case.¹ Accordingly, the appeal is denied and dismissed and the writ is quashed. The papers in this case are remanded to the Superior Court with our decision endorsed thereon.

Entered as an Order of this Court, this 19th day of **September, 2008**.

By Order,

Clerk

¹ This list of names was not part of the record before this Court, but was provided by counsel upon inquiry by the Supreme Court clerk’s office.