

State of New Jersey  
Council On Local Mandates

In re Complaint filed by The Township of Middletown Re: Public Law 2014,  
Chapter 31

Docket No. COLM-0002-23

Decided June 27, 2023

Brian M Nelson, Esq. appeared for Claimant, Middletown Township (Spiro, Harrison & Nelson), and on the brief.

Joseph C. Faranoff, Esq. Assistant Attorney General, appeared for Respondent, State of New Jersey, and on the brief.

OPINION

On February 14, 2023, counsel for the Complainant, Middletown Township, filed a complaint alleging that The Criminal Justice Reform Act (P.L. 2014, chapter 31) constitutes an unfunded mandate contrary to and in violation of article VIII, section 2. Para. 5 of the New Jersey Constitution as implemented by N.J.S.A. 52:13 H-1 to -22 known as the Local Mandates Act. The claim is based upon an alleged need to hire an additional law enforcement officer with various accompanying expenses totaling approximately \$325,000.00 resulting from a greater recidivism rate of non-violent criminal offenders. In particular, it is alleged that an uptick in motor vehicle thefts was the primary cause for the increase in law enforcement expenses. The complaint set forth with some specificity the details supporting the expenditures and the lack of any State funding to assist the municipality in financing those expenses.

In response to the Complaint, the Attorney General filed a Motion for Summary Judgment on the State's behalf. In a carefully crafted brief in support of the motion, the State argues very articulately and in great detail why our decision in the case of In re Complaint filed by the New Jersey Association of Counties Re: N.J.S.A. 2A:162-16(b)(1) and N.J.S.A. 2A-162-22 Sections of The Criminal Justice Reform

Act, COLM-0004-15, should control the outcome of this case. There, we held that the CRJA which was enacted by the legislature simultaneously with the constitutional amendment to article I, section II in the November 2014 election was exempt from challenge as an unfunded mandate because it clearly implements a provision of the New Jersey Constitution. As the State points out “ The CRJA’s effective date states that the provisions in question ‘shall take effect on the same day that a constitutional amendment to Article I, paragraph 11 of the New Jersey Constitution authorizing the court to deny pretrial release of certain defendants takes effect.” P.L.2014, c. 31, sec.21.

The State correctly asserts that we are committed to the principle of “stare decisis” by which we follow settled precedent, except in the most extraordinary, unusual or unexpected circumstances, none of which are present here. Luhejko v. Holland, 207 N.J. 191. This is particularly applicable here since the precedent is the N.J. Association of Counties case decided a mere six years ago by many of the same council members who are considering the present case. In the N.J. Assoc. of Counties case we made clear that the CRJA was not an unfunded mandate because the Act represented a “text book” case of exemption from such consideration. We find absolutely nothing in the matter before us that changes that conclusion. In fact, we see no need to repeat our legal reasoning here in detail as the Attorney General has done in its brief. We accept the State’s position.

Ordinarily, we would conclude our opinion at this point. However, we find that we are compelled to memorialize our conclusions regarding the particular weakness of Middletown Township’s case. When Complainant was provided with a date for filing its response to the motion for summary judgment, we expected to receive a timely filed brief. What we received instead was the following:

Dear Council On Local Mandates:

This office represents the Township of Middletown. Please accept for filing this letter brief in lieu of a formal brief in response to Respondent’s Motion for Summary Judgment. The Township opposes Respondent’s Motion based(on) [sic] the arguments advanced in the Township’s Complaint. The Township appreciates the Council’s attention to this matter.

The letter was not accompanied by a citation to any case law, law review article, statute or Rule. Rather, the Township relied solely on the “allegations” in its Complaint. Clearly, bare conclusions in the pleadings without factual support in affidavits will not defeat a motion for summary judgment. Miller v. Bank of Am. Home Loan, 419 N.J. Super.540, 551(App. Div.), certify. den. 221 N.J.567 (2015).In the matter before us, there is no issue of fact. Rather, the only issue is one of law and there being no legitimate opposition, we are left with no option but to deem the motion to be “unchallenged”. Mangual v.Berezinsky, 428 N.J. Super 299,312-313 (App. Div. 2012). There is not even a suggestion that we should revisit our prior precedent or that we somehow “got it wrong”. Nor is there any mention of the name of the case sought to be overturned in either counsel’s letter or the Complaint. We are merely left to wonder why the complaint was filed in the first place.

We are also left to speculate why the complaint was filed and whether Middletown actually thought that it had any chance of prevailing based solely on the mere allegations in a Complaint. There are no references to the doctrines of ‘stare decisis” or “collateral estoppel” and no reasons are provided as to why they should not apply. When read again in light of these considerations, the complaint is fundamentally a press release rather than a pleading.

When a municipal attorney, purportedly representing the local government in the interest of its constituents, acts so cavalierly in pursuit of a complaint that he has filed with a tribunal of this State, we can conclude only that his actions and the complaint that he presumably authored are “frivolous’ at best and a colossal waste of the Council’s time and effort. Perhaps this simply represents an idiosyncratic approach to waving a white flag or holding up one’s hands in surrender. We conclude that Complainant should have voluntarily dismissed its complaint and ended the matter when the motion for summary judgment was filed. It is the mishandling and continued pursuit of this matter that causes us to consider whether we should amend our Rules to provide for sanctions for the filing of frivolous actions and allowing them to proceed to conclusion in the face of overwhelming odds.

The Motion for Summary Judgment is granted and the matter is dismissed with prejudice.

The decision of the Council is unanimous. Participating in the decision are John A. Sweeney, AJSC (Ret.), Chair, Victor R. McDonald III, Vice-chair, and members David Fiore, Robert R. Salman, Robert Landolfi, Nuno Afonso, Nancy Brown and Robert R. Pacicco.