Supreme Court of the United States

OCTOBER TERM, 1969

In the Matter of:

ATLANTIC COAST LINE RAILROAD COMPANY,

Petitioner,

vs.

BROTHERHOOD OF LOCOMOTIVE ENGINEERS: LODGE DIVISION 823 OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS: J. E. EASON, INDIVIDUALLY AND AS AN OFFICIAL OF SAID BROTHERHOOD: H. M. SAWYER, INDIVIDUALLY AND AS A MEMBER OF SAID BROTHERHOOD: W. K. RUTLAND, INDIVIDUALLY AND AS A MEMBER OF SAID BROTHERHOOD,

Respondents.

Docket No. 477

Pt. 1

Place Washington, D. C.

Date March 2, 1970

ALDERSON REPORTING COMPANY, INC.

300 Seventh Street, S. W.

Washington, D. C.

NA 8-2345

C O N T E N T S

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BENHAM

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM

ATLANTIC COAST LINE RAILROAD COMPANY, Petitioner	
vs	No. 477
BROTHERHOOD OF LOCOMOTIVE ENGINEERS: LODGE DIVISION 823 OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS: J. E. EASON, INDIVIDUALLY AND AS AN OFFICIAL OF SAID BROTHERHOOD: H. M. SAWYER, INDIVIDUALLY AND AS A MEMBER OF SAID BROTHERHOOD: W. K. W. K. MORRIS, INDIVIDUALLY AND AS A MEMBER OF SAID BROTHERHOOD: AND G. W. RUTLAND, INDIVIDUALLY AND AS A MEMBER OF SAID BROTHERHOOD, Respondents	

The above-entitled matter came on for argument at 1:55 o'clock p.m. on Monday, March 2, 1970.

BEFORE:

WARREN E. BURGER, Chief Justice
HUGO L. BLACK, Associate Justice
WILLIAM O. DOUGLAS, Associate Justice
JOHN M. HARLAN, Associate Justice
WILLIAM J. BRENNAN, JR., Associate Justice
POTTER STEWART, Associate Justice
BYRON R. WHITE, Associate Justice
THURGOOD MARSHALL, Associate Justice

APPEARANCES:

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APPEARANCES: (Continued)

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Attorney for Respondents

P R O C E E D I N G S

MR. CHIEF JUSTICE BURGER: Number 477, Atlantic Coastline against Brotherhood of Locomotive Engineers. Mr. Friedmann, you may proceed whenever you are ready.

ORAL ARGUMENT BY FRANK X. FRIEDMANN, JR., ESQ.

ON BEHALF OF PETITIONERS

MR. FRIEDMANN: Mr. Chief Justice and may it please the Court: Due to the intricate litigation which is the background of this case, and the complex factual setting, as well as the unique procedural vehicle which was employed by the Respondent Brotherhoods below, we will, with the Court's permission, make first a separate and distinct statement of the facts and of the procedural setting in this case, which will then be followed by Mr. Lyons' argument of the law as applied to those facts.

First, the background and the physical setting which we are dealing with. Physically we are dealing with the property of three separate railroad carriers. First, the Florida East Coast Railroad. The Florida East Coase property is located in large part in the south of the St. Johns River in Jacksonville, Florida, although it is bounded on the north by the north bank of the St. Johns River.

The second parcel of property we are dealing with is located to the north of the FEC property and that property is of the Jacksonville Terminal facility.

Thirdly, the property which is directly involved here is the Moncrief Yard, located again, north of the Jacksonville Terminal Company.

Now, the background, and in highly capsule form, if I may.

In January of 1963 the FEC nonoperating employees went on strike and began to picket the FEC property. In May of 1966 these pickets moved up the line and across the St. Johns River and began to picket the Jacksonville T rminal Property. Two series of litigations resulted from that picketing, both of which came before this Court.

First, the Jacksonville Terminal Company sought an injunction and was granted an injunction in Federal Court. That injunction was reversed, due to the Bar of Norris-Laguardia by the Fifth Circuit and this Court affirmed, 4-4.

SEcondly, the Jacksonville TErminal Company sought an injunction in state court. That injunction was granted and in March of last year this Court reversed by a 4-3 decision.

In the meantime, however, and in April of 1967, FEC pickets again moved up the line and placed pickets around the ACL's Moncrief Yard. Moncrief Yard, the facility which is involved in this case, is a wholly-owned piece of property, or a piece of property wholly owned by the ACL, which is devoted primarily to classification and secondary to the interchange of traffic with connecting carriers.

Classification, as the term implies, is a simple act of breaking down a roadtrain which comes into the yard, putting it into its separate classes and putting it into a roadtrain which goes out of the yard. It comes in ACL and goes out ACL.

The interchange procedure which is used by FEC and ACL in Moncrief Yard, is also quite simple. The FEC, with its locomotives and employees bring cars across the St. Johns River, north, across the Jacksonville Terminal Company and drops them on a previously designated track in Moncrief Yard. And on occasions they pick up cars at Moncrief Yard and take them back to their own classification yard south of the river.

The operating procedure which exists as to Moncrief Yard, as well as the relationship between ACL and FEC, is, we respectfully submit, totally distinguishable from the situation which existed in the case decided by this Court in March of last year.

In the first place, the FEC owns no part of the ACL stock or no part of ACL property. Secondly, the FEC, obviously owns no part of Moncrief Yard and has no interest ownership-wise in Moncrief Yard. The FEC exercises no discretion in either the overall management of ACL or in the management and operation of Moncrief Yard.

The ACL does not maintain or repair any FEC cars and very importantly, we submit in this case, no FEC employee reports or leaves from work at the picketed premises of

Moncrief Yard.

The 1967 picketing, which is an issue here, took place at the ACL employee entrance into Moncrief Yard. The request which was made by picket signs, pamphlets and, apparently, by telephone calls during the night, was for ACL employee to go to work, but refuse to perform the functions which they normally perform in that yard, namely: classify and interchange cars which were the sole property of ACL.

There are at least three points which we believe should be made so far as the picketing is concerned.

First, there is no relationship between the picketing which took place at Moncrief Yard in the presence of FEC in that yard.

Secondly, the intent of the Brotherhood is obvious, and was expressed by the highest official, insofar as this strike is concerned, and that is: to close the ACL, because the ACL was doing business with the FEC.

Thirdly, the picketing was designed to force ACL employees to quite performing work which they normally did for the ACL.

Now, as to the relationship between the picketing and the FEC presence in the yard.

There was no relationshipin time between the picketing and FEC presence in the yard. They picketed when the ACL employees came to work and this was not necessarily at all the

time when FEC employees or engines might be in Moncrief Yard. There was no relationship, in effect. The effect of this picketing was to cause ACL employees to cease to handle ACL cars, and in many instances cars which were never originated on and were not destined to FEC. Separation is practical in this case. There is more than one place at which these FEC employees picketed. And the intent was expressed by the head Brotherhood man insofar as this strike is concerned and I quote from the appendix at page 31.

"He was going to shut down the Coastline Railroad."

It was in this factual situation that the rather unique procedural complexity arose. First, in 1967 the ACL filed a complaint in Federal Court based solely on Federal Law and sought a temporary restraining order. That motion or request for a temporary restraining order was denied on the grounds of the bar of Norris-LaGuardia. This action laid dormant from April 26, 1967 to May 23, 1969. Subsequently, the ACL filed suit in state court requesting an injunction solely under state law. That injunction was granted.

In March of 1969 this Court handed down its opinion in Trainmen versus Jacksonville TErminal and it's the chronology of subsequent events with which this Court is primarily concerned today.

First, the Brotherhood moved to dissolve the court injunction which had been handed down in 1967. And notice to

hearing from May 24th, 1969, virtually while this hearing was going on in State Court on the Brotherhood motion to dissolve the injunction, a handwritten pamphlet was filed by the Brotherhood in the dormant Federal case and a copy of that answer is found in the appendix at page 163.

A second full hearing on the merits was had in STate Court and Judge Lucky then issued a letter opinion, which indicated that he would deny the Brotherhood's motion to dissolve the State Court injunction.

It was then that the Brotherhood filed a motion in the dormant Federal case in Federal Court, requesting that the Federal District Judge, in effect, enjoin the State Court from enforcing its injunction. And the grounds of the motion were, and I quote from the appendix page 186:

"To enjoin ACL from availing itself of the State Court injunction"pending final hearing and determination of this (the Federal action).

The ACL attempted to have the Federal action finally determined and in fact, immediately filed a notice of dismissal. The ACL stated in open court that it was willing to have its complaint and its case dismissed with prejudice. The Brotherhood objected to a dismissal with prejudice, even though they had not, in their handwritten answer sought any affirmative or counter-relief and the challenged order was entered on June 19, 1969, which (1) denied the ACL the right to dismiss its

complaint with prejudice and (2) enjoined the State Court from enforcing the 1967 injunction, pending final hearing in the case in which we respectfully submit, there was nothing left to finally hear.

We did, however, seek a final hearing and we were denied a final hearing and it is subsequent to that that these Appellate proceedings were commenced.

In conclusion, as to the facts and the procedural setting, which give rise to this case, we would respectfully submit that the procedural vehicle of a Federal District Judge enjoining a STate Court used by the Brotherhood in this case, is unique, and it does constitute a serious, and we believe, a grave threat to continued Federal-State judicial relationships.

The ACL sought injunctive relief in Federal Court in 1967 and that relief was denied because the Court was barred from action by Norris-LaGuardia.

The Brotherhood did not, and has never sought any counter or affirmative relief in that case. The Federal Court did not determine, and could not determine the legality of the picketing in 1967.

Subsequently, the Brotherhood contends that somehow the F deral District Court in negatively denying the ACL's requested relief affirmatively, determined that the picketing was legal.

It was not, however, until after the Brotherhood had failed to prevail in State Court on its motion to dissolve the State Court injunction that the Brotherhood took steps to enjoin the State Court to 'protect" the jurisdiction of the Federal Court.

We respectfully submit that the intent was obvious and the effect was obvious and that was to subvert the appellate processes of the State of Florida, avoid normal appellate procedures in the State of Florida, and to seek directly a review of a State Court Circuit Judge decision by a Federal District Judge and it is that error, legally, which, with the Court's permission, Mr. Lyons will commence discussing at this time.

Thank you.

MR. CHIEF JUSTICE BURGER: Mr. Lyons.

ORAL ARGUMENT BY DENNIS G. LYONS, ESQ.

ON BEHALF OF PETITIONER

MR. LYONS: Mr. Chief Justice and may it please the Court: This case is quite different from the previous cases involving the attempts of the Railway Brotherhoods to involve the neutral carriers in their seven-year labor disputes with the FEC.

The basic point of difference is that this is the first case which involves an injunction granted out of the courts in one of our concurrent jurisdictions, the Federal

jurisdiction, against proceedings inthe State Court.

Now, we submit that for the Brotherhood here, to prevail, for the REspondents here to prevail they must, on the basic issue in this case, prevail on two points: First they must show that this case falls within the exceptions tothe anti-injunction statute; that is Section 2283 of the Judicial Code.

Secondly, after bringing the case within those exceptions, they have to demonstrate that on the merits that this Federal Court, Federal Law defense that they attempt to litigate through this injunction against the State Court proceedings. They further have to show that that defense is a good and valid defense.

Q Doesn't it also have to show that the injunction itself is not covered by Norris-LaGuardia?

A Yes, and they further have to show that. That is sort of a severable point, but they also have to demonstrate that.

The matter started by the injunction that our side sought in the Federal Court, being denied for that very reason

We, on the other hand, may only prevail on one of the points which we have just mentioned. We need only to demonstrate either that this case is not within any of the exceptions to Section 2283 or that the preemption or supercession defense that they are attempting to litigate in this fashion,

isn't a good one, or that Norris-LaGuardia here takes away the power of the Federal Court to enjoin.

Q If you prevail you prevail on any one of those?

A Any one of those three, we submit, Your Honor.

We start with Section 2283 of the Judicial Code, which is a statute that takes back virtually to the start of our constitutional republic. In its earliest version it was passed in 1793. It has been amended at various times, but remains inthe same substantial form in which it was enacted back around in the Third Congress.

It now says "A court of the United States may not grant an injunction to stay proceeding in a state court, except as expressly authorized by Act of Congress or where necessary, in aid of its jurisdiction, or to protect or effectuate its judgments."

This Court has construed that statute on a number of occasions in the century and three-quarters that it's been on the books.

The basic purpose of the statute, this Court has said, is to avoid needless friction between the State and Federal Court systems. The first reason, obviously is that we have and have had since the foundation of our constitutional republic two independent systems of courts operating. The relationship between them is a delicate matter.

The second reason is that of uniformity. As this

Court has once said, "It is not only the State Court judges that are capable of misinterpreting this Court's decisions." The lower Federal Courts, this Court has indicated, sometimes are, themselves.

"Recognizing that,"this Court has indicated, "if we were to have the lower Federal Court sitting in judgment over whether Federal Law defenses that were urged in the State Courts were properly passed upon, we would have less and less uniformity; we would have different Federal judges taking different views, just as you would have different state court judges taking different views of what the Federal Law was. We would be introducing added diversity and lack of uniformity, rather than simplifying matter.

So it is that the 1793 legislation is, in a way, in the same, deals with the same subject matter as the first Judiciary Act of 1789, which again, has been on the books and has been the basic principle of this Court's review of State Courts judgments, and that is that this Court has jurisdiction to review the validity of Federal Law defenses that are set up in the State Courts, but then only where the case has proceededin an orderly fashion through the State Court system and where the judgment of the highest State Court that is available to pass on the question has been obtained.

Back in 1955 under the present version of the anti-injunction statute, Section 2283 --

Q May I ask a question: This State Court injunction is not under review is it now in the Florida State Court?

A No. The respondents were afforded an opportunity to submit a final judgment and I believe at the time of the hearing theyindicated that they would, so that they could take an appeal from it through the State Court system.

Judge Lucky, the Florida trial judge accorded them that right in his letter of opinion, the letter of opinion that's complained of here, back on June 3 of 1969.

Q Could they still enter a final judgment so that then there would be review in the --

A Yes; they certainly could. They have not done that and the Respondents have not --

Q I take it the injunction that was issued, until a final judgment is issued, that temporary injunction is not itself appealable; is that right?

A The Florida law, I believe, is a bit unclear. as to that; as to whetherit would be or not, but the State Court here was perfectly plain that he was perfectly willing to give them an appealable order.

Q Mr. Lyons, I was a little puzzled by your emphasis in the briefs and now on the union's failure to get a decree or a judgment entered. Ordinarily the prevailing party takes that responsibility, don't they?

A Well, we were asked to come into agreement with

counsel for the Respondent as to the form of the judgment to be entered, and counsel for the respondent, I am sure will confirm this, has indicated that he does not wish to join with us in settling the terms of a final judgment --

Q Is there anything to prevent you in the meantime from sending him a copy of a proposed judgment and saying that if there is no comment within ten days you are going to ask the court to enter that judgment?

A WEll, I believe we have sent them a draft. We have never taken the other step, but he has never given us any comments on the form of the judgment.

Q I'm not sure what difference it makes, except that you seem to dwell on it so much.

A Well, the fact of thematter is, Your Honor, the only point we're trying to make is that it's entirely within the Respondent's power if he wants to appeal Judge Lucky's injunction. It's entirely within his power to do so and Judge LUcky is, of course --

Q I take it, then that a final judgment may be entered without further hearing; is that it?

A I believe it could be. In fact, I believe the Respondent so requested. There was an extensive evidentiary hearing on the preliminary injunction in the -- as many facts were involved then, I believe, as could be.

In 1955, using as it was then in effect, the present

version in Section 2283 in the Richmond Brothers case, this Court made it plain that litigation of a so-called labor preemption or labor supercession Federal Law of defense to a State Court proceeding was not an exception to Section 2283, simply because your position was that the State Court was moving in an area where there was preemption or supercession because of Federal labor policy, that did not give you a right to go into Federal Court and obtain an injunction against the State Court proceedings.

The Court there said that there was no additional implicit exceptions to be read into Section 2283 even where the contention by the parties seeking the injunction was that the State Court was wholly without jurisdiction over the subject matter, having invaded a field preempted by Congress.

And let me say that this case, I believe, is not even as strong a case for a Federal Court injunction as with Richmond Brothers. In Richmond Brothers we had a situation under the Taft-Hartley Act, the Labor Management Relations Act, where this Court has held that the State Courts are without jurisdiction.

Now, the principal substantive authority for that preemption or supercession defense that the Respondents are urging here is this Court's decision in the Jacksonville Terminal case at the last term, where this Court expressly said that the State Courts had jurisdiction but that in the

circumstances there presented, that the application of their own State substantive law had there to yield, because of pre-eminent Federal policies.

Now, since there is no implicit exception for adjudication of the preemption or supercession defense, we turn to the text of the statute. There are two exceptions in the statute that the Respondents are citing:

The first exception is for injunctions necessary in aid of District Court's jurisdiction. The reviser's note in the existing precedents from the 348 era, and this exception, at least, was designed to carry forward the preexisting law, indicates that that exception deals with two cases.

First you have the removed case where a case is removed from the State Court to the Federal Court and then the State Court tries to go ahead with the case as if nothing had happened. And there the authorities indicate by an order to protect its jurisdiction and aid of the District Court's jurisdiction, it may enjoin the proceedings in the State Court.

The other had to do with a fund or to break into Latin, "RES". what the Courts call a / If there is a particular fund, then that only one court can take jurisidction over, the exception is also applicable.

The decisions of this Court in Kline versus Burke Construction and Princess Nita v. Thompson, back before the codification, which the codifications, we submit, carry forward,

indicate that you may, despite that language, have parallel proceedings which seek general or personal relief in the two systems at the same time.

So, here there could be a Federal Court suit under Federal Law and a State Court suit underState Law. The fact that there is a proceeding in one doesn't affront thejurisdiction of the other.

The next exception that they cite and which I think is the basis of primary reliance by the Respondents is the exception for injunctions necessary to protect or effectuate a District Court's judgments.

Now, the Revisor's note teaches that that was aimed to prevent relitigation by the State Courts over a dispute which had been finally litigated by a Federal Court. In effect, it was designed to overrule, perhaps the Highwater decision of this Court. It's a construction of the anti-injunction statute which was the Toucey, the New York Life case back in '41.

The Respondents have tried, then, to characterize this case as one where the Federal Court was acting in enjoining these proceedings simply to protect or effectuate its judgments.

Now, for the first time in this Court they pointed to a whole litany of proceedings in the Federal Court, the cases involving the Government's suit against the FEC, to which the

other carriers aren't a party and the so-called Clerk's case which came before this Court in 1966 which was a proceeding which was designed to see how far the FEC could go in changing the work rules with their own employees during the strike.

There is no order, whatsoever, or judgment, whatsoever in any of these other proceedings that we are strangers to, which the Respondents cite as being the order that the District Court was attempting to protect or effectuate here.

We come back to the order which is the one that they have relied on throughout, and that is the April 26, 1967 order of the Federal District Court, which was the order which denied the injunction to the ACL under Federal Law.

Now, that order says nothing whatsoever about the existence or nonexistence of remedies in the State Court under State Law. Indeed, if getting the injunction in the State Court affronted thatorder of the Federal Court, it took the Respondents quite a long time to complain of that to the Federal Court.

The State Court order -- the Federal Court order was entered in April of '67. The State Court order in May of '67. Then, two years passed and it was not until 1969 that the Respondents suggested that there was s[illegible] thing in the 1967 order of the Federal Court that the State Court injunction contravened.

I think the explanation for this delay is simple.

What happened in 1969 was this Court's decision in the Jacksonville Terminal litigation. What the Respondents are trying to litigate in the Federal Court doesn't have anything to do, really, with the meaning of the District Court's 1967 order.

What they are trying to litigate is a preemption defense, based upon the intervening decision in the Jacksonville Terminal case. And that, we submit, puts us into the Richman Brothers situation where this Court has held that there will be no exceptions to the anti-injunction statute to permit litigants to try out thevalidity of preemption or supercession defenses against State Law proceedings.

Q Is it really preemption or even supercession?

A I keep using those two terms, Your Honor; I'm not sure it's either. It's the existence of a Federal Law-type of defense, a Federal privilege or a Federal unity, if you will, that is urged as a bar to the State proceedings. I think this is an a fortiori case, really, from Richman Brothers. If you couldn't try out, through an injunction proceedings, a contention that the State Courts have no jurisdiction whatsoever, it would seem to follow a fortiori from that that you couldn't try out by way of an injunction against them, whether there was some sort of Federal Law defense.

Q Whether they were really right or wrong.

A Right or wrong; yes.

Q Well, isn't that what it comes down to, that the claim is that under Jacksonville, this Court's opinion in Jacksonville, since this case was virtually indistinguishable, the State Court was wrong in issuing an injunction.

A That was their claim; yes.

Q And therefore, the Federal District Court has power to enjoin what the State Court did, and you say, "Well, no, you can't do that, because of the statute."

A Yes, that really --

Q It's really a matter of right or wrong; isn't it, rather than supercession or preemption?

A I think that's --

Q And then, the only Federal Court that can pass on the validity of the State Court injunction is this Court.

A That's correct, Your Honor.

Q Yes; on direct review.

A That's correct.

There are a number of other reasons why the injunction here is not properly within the exception to our injunction necessary to protect or effectuate a Federal Court's orders.

In the first place, the real basis to us in the Federal Court denial of an injunction back in '67 to the ACL, appears to be the Norris-LaGuardia Act. Virtually all the cases which the order cites are Norris-LaGuardia Act cases,

and the legislative history of the Norris-LaGuardia Act makes it quite plain that that act was aimed solely at the Federal Courts, and does not take away the remedies and rights in the State Courts.

MR. CHIEF JUSTICE BURGER: I think we will adjourn for lunch at this time.

(Whereupon, at 2:30 o'clock p.m. the argument in the above-entitled matter was adjourned until 10:00 o'clock a.m. on Tuesday, March 3, 1970).