

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NOREEN KEMETHER,

Plaintiff

v.

PENNSYLVANIA INTERSCHOLASTIC
ATHLETIC ASSOCIATION, INC. and
DEL VAL ATHLETIC ASSOCIATION,

Defendants

CIVIL ACTION

NO. 96-6986

CONSENT DECREE

WHEREAS, Plaintiff Noreen Kemether ("Kemether") instituted the above-captioned action pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq., Title IX of the Education Amendments of 1972, 20 U.S.C. §§1681 et seq. the Equal Protection Clause of the United States Constitution, and the Equal Rights Amendment of the Pennsylvania Constitution, alleging that Defendant Del Val Athletic Association ("Del Val") discriminated against plaintiff on the basis of gender in the assignment or refusal to assign her to officiate interscholastic basketball games; and

WHEREAS, Defendant Del Val Athletic Association denies the allegations of discrimination but wants to resolve this lawsuit and institute assignment policies, procedures and practices that will require the assignment of officials on the basis of their qualifications and without discrimination on the basis of gender; and

WHEREAS, Plaintiff Noreen Kemether and Defendant Del Val Athletic Association have entered into a General Release and Settlement Agreement which fully resolves the claims brought by Plaintiff against Defendant in this action and which Agreement provides for the entry of a consent decree containing certain terms; and

WHEREAS, both parties wish the Court to approve and accept for filing under seal the within Consent Decree; and

WHEREAS, both parties wish the Court to retain and exercise jurisdiction to enforce this Consent Decree and the General Release and Settlement Agreement entered into by the parties; and

WHEREAS, except for the aforementioned retention of jurisdiction for enforcement, both parties wish this action to be terminated as to Defendant Del Val Athletic Association;

NOW THEREFORE, this 19th day of May, 1998, Plaintiff Noreen Kemether and Defendant Del Val Athletic Association hereby agree that this Court may enter a Consent Decree to be filed under seal by the Court, requiring Defendant Del Val Athletic Association to perform the following acts and meet the following obligations:

1. Del Val Athletic Association shall, prior to and effective at the commencement of its 1998-99 basketball season, adopt a written policy in a form acceptable to Kemether, which states explicitly that the following practices are unacceptable, are prohibited and will not be tolerated by Del Val with respect to the assignment of officials to its basketball games: (a) discrimination on the basis of gender in

the assignment of such officials; (b) reliance upon generalizations or stereotypic views as to the alleged abilities of women or men to officiate basketball games; and (c) exclusion of women on the basis of their gender from assignment to officiate boys' games at any level, including JV and varsity play. Del Val shall disseminate the policy adopted pursuant to this paragraph to all persons involved in interscholastic basketball in the Del Val league, including but not limited to assignors, coaches, athletic directors and school principals, and shall use its best efforts to enforce the policy with respect to all such persons in order to prevent discrimination on the basis of gender in the assignment of officials. Del Val shall include a provision in any contract or agreement that it makes with any person who is to be responsible for assigning officials to Del Val basketball games, that will require that person to abide by the policy adopted pursuant to this paragraph, and that further will provide that his or her contract may be terminated, and all compensation due thereunder denied or recovered, if the person violates said policy. A policy conforming to this provision must remain in effect beginning with and continuing at all times after the commencement of the 1998-99 basketball season.

2. Del Val will contract with one or more persons (the "Assignors") who is or are acceptable to both Kemether and Del Val, to assign officials to all interscholastic basketball games in which a Del Val team is the home team during the 1998-99 basketball season. James Faulkner will not be selected as an assignor. The Assignor(s) shall be selected according to criteria that include a personal commitment to the assignment of officials to all games, including boys' and girls' varsity games, without

any discrimination on the basis of the gender of the officials. No Assignor may be replaced for any part of the 1998-99 season except with another Assignor acceptable to Kemether and Del Val

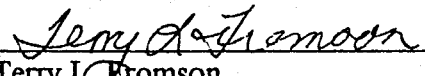
3. Del Val shall direct its Assignors(s) to establish a system that will ensure that all PIAA-registered basketball officials who wish to officiate in Del Val games will have a fair opportunity to be evaluated, to be qualified for assignment to games at a level suitable to their officiating skills, and to be periodically re-evaluated to determine whether their skills have advanced to such a point as would warrant their qualification to officiate a higher level of basketball games. Del Val shall direct its Assignor(s) to maintain a list of the persons qualified to officiate each level of play and to re-evaluate that list at least once each year to determine whether any changes are justified (such as advancement of officials from one level of game to another). Del Val shall direct its Assignor(s) to fairly distribute assignments to officiate each level of play among the officials deemed qualified for that level of play, to the fullest extent practicable. Del Val also shall cause the Assignor(s) to send a written notice to each female official in the Delco Chapter of PIAA Basketball Officials, on or before October 1, 1998, that notifies them of the identities of the Assignors(s) for the 1998-99 season, explains the procedures that will be followed to determine the qualifications of officials who want to officiate in Del Val games, and identifies the opportunities that will be available to officials to be evaluated for that purpose. A policy conforming to this provision must remain in effect beginning with and at all times after the commencement of the 1998-99 basketball season.

4. At the end of the 1998-99 Del Val Basketball season, Kemether and the President of Del Val will meet (along with additional Del Val representatives if Del Val so desires), to assess the effectiveness of the procedures established by this Consent Decree in securing the fair and equitable assignment of qualified basketball officials to officiate games in the Del Val Athletic Association. The parties will discuss in good faith whether these procedures have resulted in such fair and equitable assignments, and if not, how these procedures might be modified to accomplish that goal.

5. For seven consecutive basketball seasons, beginning with its 1998-99 season, Del Val shall cause its Assignor(s), or such other person(s) as may be responsible from time to time for the assignment of officials to its basketball games, to provide assignments to Kemether to officiate at least five (5) varsity boys' basketball games and at least five (5) girls' varsity basketball games in each such season. Del Val shall cause the Assignor(s) or other person(s) responsible for assignments to exert his or her best efforts to ensure that assignments in the required numbers are provided on dates and at times consistent with Kemether's availability in light of her work and other commitments. Kemether shall be paid for each such game according to the prevailing rate paid to all officials in the Del Val Athletic Association. This guaranteed level of assignments is a minimum and not a maximum, and Kemether shall remain eligible for assignment to additional games on a fair and equitable basis.

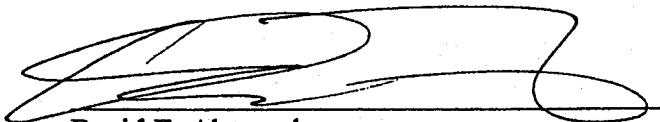
6. The jurisdiction of the Court over this action and over Defendant Del Val Athletic Association shall continue until its obligations under this Consent Decree and under the General Release and Settlement Agreement have ceased.

FOR THE PLAINTIFF:



Terry L. Fromson
WOMEN'S LAW PROJECT

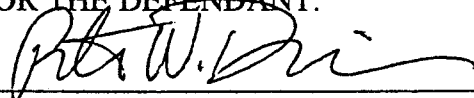
Dated: 5/18/98



David F. Abernethy
DRINKER BIDDLE & REATH LLP

Dated: 5/21/98

FOR THE DEFENDANT:



Peter W. Dicce
BEATTY, CRAMP, KAUFFMAN & LINCKE

Dated: 5-13-98

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Plaintiff

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FILED JUL 10 1998

ORDER

AND NOW, this ¹¹ day of July, 1998, upon consideration of the attached

Consent Decree, it is hereby ORDERED that:

1. The Consent Decree is APPROVED.

2. The Court shall retain and exercise jurisdiction to enforce the
Consent Decree ^{but not the} ~~and~~ General Release and Settlement Agreement entered into between
Plaintiff Noreen Kemether and Defendant Del Val Athletic Association.

3. Except with respect to jurisdiction retained under ¶ 2 above, this
action is terminated as to Defendant Del Val Athletic Association.

4. *The hearing scheduled for 7/24/98 is cancelled.*

William J. York, Jr.
ENTERED: 7-10-98

CLERK OF COURT