

Decision

1
2 THE COURT: I'm prepared to render a
3 decision.

4 The petitioners seek to be declared
5 invalid an agreement between the major political
6 parties in this County who cross endorsed various
7 candidates claiming it is in violation of the
8 Election Law.

9 I have before me a copy of that agreement
10 and it simply says that for the general election
11 of 1990 -- I'm sorry, for the general election
12 of 1991, I am ignoring the clauses pertaining
13 to the general elections of 1989 and 1990, "We
14 hereby pledge our support, endorse and nominate
15 Judge J. Emmett Murphy, Administrative Judge of
16 the City Court of Yonkers for election to the
17 County Court of Westchester County to fill the
18 vacancy and participate -- created by the seat
19 of Francis A. Nicolai to the Supreme Court," et
20 cetera.

21 There is nothing in this agreement which
22 compels Judge Murphy to accept a cross endorsement.
23 It is simply an agreement accepted by both parties
24 which indicate that each party is prepared to
25 endorse a candidate for nomination. There's nothing

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Decision

illegal about it. There's nothing unconstitutional about it. If it is to be prohibited it is for the Legislature to prohibit it. The public is not damaged in any way. They have their rights. The public's rights have not been abridged. For Supreme Court nominations you have a right to enter a primary for the election of candidates for the judicial convention. For County Court positions you have a right to submit petitions, to enter a primary for a nomination by a political party. In addition to the right to file petitions as independent candidates.

There is nothing in this agreement which is illegal. There's nothing unconstitutional about it.

I am not addressing myself to the other defenses that were raised, but I will point out that the relief sought is to declare illegal, invalid, void and against public policy the contract, and I quote, "The contract embodying the three year plan of the party leaders also known as cross endorsements," et cetera, close quote. And that quote, "Respondent Hon. J. Emmett Murphy be declared ineligible to serve as a Judge of the County

Decision

1
2 Court and disqualified of being a candidate for
3 any party for election to such office." That's
4 the second relief sought that the designating
5 petition or petitions filed (I'm not quoting directly
6 now) of the Westchester County Board of Elections,
7 purporting to designate respondent Murphy as a
8 candidate for the Republican and Conservative
9 nominations for County Court Judge be declared
10 invalid. And, that the Board of Elections be
11 enjoined from printing and placing the name of
12 respondent Hon. J. Emmett Murphy as a candidate.
13 I find this petition is totally without merit,
14 that there is no legal basis for me to grant any
15 of the relief.

16
17 I deny the petition. I find that this
18 agreement was not in violation of the Election
19 Law. It is not unconstitutional. And anyone
20 has a right to endorse anyone they wish for
21 nomination to public office. It is when the
22 nomination is paid for, when there is a consideration
23 given for nomination that the agreement is illegal.
24 That is not the situation here.

25 Accordingly, the petition is dismissed
in its entirety. The foregoing constitutes the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Decision

Order and decision of this Court.

oOo

CERTIFICATION

I, Elizabeth A. Kent, Senior Court Reporter, do hereby certify the foregoing to be true and accurate, as taken by me on August 12, 1991, before the Hon. Vincent Gurahian, Justice of the Supreme Court.



Elizabeth A. Kent

So ORDERED

Dated: August 13, 1991

S / HON. VINCENT GURAHIAN
J. S. C.