

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT NO. 86

HON. DIANE WAYNE, JUDGE

4 CHURCH OF SCIENTOLOGY,)

5)
6 Plaintiff,)

7 vs.)

NO. BC 052 395

8 GERALD ARMSTRONG, et al.,)

9 Defendants.)
1011 TRANSCRIPT OF PROCEEDINGS

12 March 5, 1993

13 APPEARANCES:14 (See appearance page.)
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27 COURT MONITOR:
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FOX TRANSCRIPTIONS
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1 LOS ANGELES, CALIFORNIA, FRIDAY, MARCH 5, 1993, A.M.

2 DEPARTMENT NO. 86

HON. DIANE WAYNE, JUDGE

3
4 THE COURT: Church of Scientology versus Armstrong.

5 MR. WILSON: Good morning, Your Honor.

6 Andrew Wilson and Laurie Bartilson appearing on
7 behalf of the plaintiff, Church of Scientology.

8 MR. GREENE: Good morning, Your Honor.

9 Ford Greene and Paul Morantz on behalf of Gerald
10 Armstrong, who is sitting at the end of counsel table.

11 MR. WILSON: Your Honor, before we begin I'd like to
12 ask the court's permission to have Mr. Michael Hertzberg sit
13 at counsel table with me. He's not counsel in this action.
14 He's a New York attorney who represented my client in the
15 previous Armstrong action on the appeal.

16 THE COURT: It won't be necessary because we're not
17 going to go very far.

18 Gentlemen, let me ask -- I'm sorry.

19 MR. WILSON: Okay.

20 THE COURT: This case is on appeal?

21 MR. WILSON: Yes.

22 THE COURT: And it just seems to me -- you're the
23 moving party?

24 MR. WILSON: That's correct.

25 THE COURT: It seems to me ridiculous to hold this
26 hearing prior to a determination whether or not this is a
27 valid order. I mean, I have some serious questions about the
28 validity of the order. And I'm not prepared to waste my

1 time, if it's going to be heard. And apparently it's going
2 to be heard very soon, because the briefs have already been
3 filed and one is left to be filed; is that correct?

4 MR. GREENE: Actually, Your Honor, the respondent's
5 brief is due. Scientology's brief is due on March 22nd.

6 THE COURT: The respondent being the moving party here?

7 MR. GREENE: Being the moving party here and the
8 plaintiff in the action. And, as we noted in a footnote in
9 our papers and we were going to call the court's attention to
10 that fact again this morning.

11 THE COURT: It just seems like an inordinate waste of
12 our time.

13 MR. WILSON: May I address that point?

14 THE COURT: Sure. You can address, but --

15 MR. WILSON: And I will attempt to convince you.

16 THE COURT: You're not. Especially after seeing all
17 the papers you filed.

18 MR. WILSON: The point here is not whether
19 Judge Sohigian made an error.

20 THE COURT: No, no. I absolutely agree and I would not
21 relitigate the validity of the order and I'm not going to
22 relitigate that. And I think you're absolutely right. But
23 it does have to be a valid order.

24 Now, I don't know how broadly or narrowly you
25 find that but I think that it's stupid for me to waste my
26 time, your time, deciding whether or not Mr. Armstrong is in
27 actual contempt of an order that may be set aside.

28 MR. WILSON: I agree it would not be a good use of your

1 time.

2 THE COURT: Well, I don't mean that my time is so
3 valuable. I don't mean it in that sense.

4 MR. WILSON: It would not be a good use of judicial
5 time, but I don't believe that any of the issues --

6 THE COURT: That's not my personal time that I'm
7 talking about.

8 MR. WILSON: I don't believe that any of the issues
9 that are going to be addressed on appeal will solve the
10 problem of whether Mr. Armstrong should be held in contempt
11 for this very simple reason:

12 The cases say that the only excuse that
13 Mr. Armstrong could have for violating this court's order
14 would be if the court did not have jurisdiction. And the
15 cases talk about what that jurisdiction is and it's either
16 personal jurisdiction and subject matter jurisdiction.

17 There's no question that Judge Sohigian had
18 jurisdiction to issue this order. Mr. Greene tries to
19 bootstrap his arguments, which are essentially arguments that
20 Judge Sohigian's order was wrong, into arguments that
21 Judge Sohigian did not have jurisdiction.

22 But if you look at the cases that we've cited --
23 and I think this is a very important point -- particularly
24 the Walker v. City of Birmingham case, where in that case
25 there was an injunction issued against people marching, a
26 Civil Rights march, that involved the infamous Bull Connor,
27 who didn't give them a permit. A court enjoined them; they
28 violated the injunction and it went all the way up to the

1 Supreme Court.

2 And the Supreme Court said it doesn't matter this
3 ordinance was unconstitutional; it doesn't matter whether
4 your rights of free speech were violated. What matters is
5 you cannot disobey the order of the court.

6 And in the Walker case the Supreme Court made a
7 statement, and I'd like to read it to you briefly. And the
8 court said, "Without question, the state court that issued
9 the injunction had, as a court of equity, jurisdiction over
10 the petitioners and over the subject matter of the
11 controversy. And this is not a case where the injunction was
12 transparently invalid or had only a frivolous pretense to
13 validity.

14 We have consistently recognized the strong
15 interest of state and local governments in regulating the use
16 of their streets and other public places."

17 I submit to the court that the interest here that
18 the court has in making sure its orders are obeyed is at
19 least as strong as the interest of the State in Walker in
20 regulating its streets and public ways.

21 What's going on here is not that Mr. Armstrong is
22 involved in this hearing against the Church of Scientology.
23 This is a case of Mr. Armstrong against this court. There is
24 an order of this court and he violated it. That's what's
25 relevant here and there's no issue before the appellate court
26 that's going to resolve that.

27 THE COURT: Oh, but I think there is. And that's
28 whether or not this is an order --

1 I'll tell you, when I first looked at this order,
2 I thought the order was clear until I then read part of the
3 transcript. Then it became unclear to me. And I think that
4 is in front of the appellate court, whether or not this is an
5 order capable of being followed, because Judge Sohigian's
6 comments that at least it confused me a little bit.

7 So I do think that issue is there and I'm going
8 to put this matter over until I think that will be decided
9 without prejudice to anybody's rights and I would suggest
10 that you return in June. I think that would give us
11 sufficient time.

12 Your Honor, my concern -- and I know this is not
13 before the court, but my concern is that Mr. Armstrong has
14 stated in deposition -- you've probably seen that
15 statement -- he's not going to obey this agreement no matter
16 what a court says.

17 We have put forth numerous instances in which we
18 believe he is --

19 THE COURT: If that's a valid order, each time he
20 disobeys it, he faces five days in jail. I take contempt
21 very seriously. And, I mean, I don't treat it lightly and he
22 just does it at his peril.

23 MR. WILSON: Thank you.

24 THE COURT: All right. Let's pick a date in June. Why
25 don't we make it June 1st.

26 MR. WILSON: May I be able to look at my calendar?

27 THE COURT: Sure.

28 MR. GREENE: These proceedings are being electronically

1 recorded; right, Judge? Could we get a transcript.

2 THE COURT: Yes.

3 MR. GREENE: Thank you, Your Honor.

4 MS. BARTILSON: Your Honor, the case is scheduled for
5 trial May 3rd. Judge Horowitz found no problem with going
6 forward on the trial of this case, despite the appeal. And
7 essentially the message that I hear Mr. Armstrong being told
8 is you do the contempt at your peril, but by filing an
9 appeal, no matter how frivolous, you can avoid an order of
10 the court.

11 THE COURT: You know what? I don't try to interrupt
12 you, so try not to interrupt me. All right.

13 MS. BARTILSON: I'm sorry. I apologize, Your Honor.

14 THE COURT: Is June 1st all right?

15 MR. GREENE: For me it's not, Your Honor. I have a
16 conflict and maybe I can change that conflict, so I'll try.

17 THE COURT: June 1st. Is that all right for you?

18 MR. WILSON: Yes, it is, Your Honor.

19 THE COURT: We'll see you back here June 1st.

20 Mr. Armstrong, you are ordered to return on
21 June 1st at 9:30.

22 MR. GREENE: Thank you, Your Honor.

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24 (Proceedings concluded.)
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 COUNTY OF LOS ANGELES)

I, MARIE FOX, a duly designated transcriber, do hereby declare and certify under penalty of perjury that I have caused to be transcribed the portion of tape 1 which was duly recorded in the Superior Court of the State of California, County of Los Angeles, Department 86, on the 5th day of March, 1993, in the above-mentioned case, and that the foregoing 6 pages comprise a true and correct, accurate transcription of the aforementioned tape.

Dated this 19th day of March, 1993.

Marie Fox **COPY**

Transcriber