

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

GERALD HEFFNER	:	CIVIL ACTION
	:	
v.	:	
	:	NO. 03-cv-5979
SOUTHEASTERN PENNSYLVANIA	:	
TRANSPORTATION AUTHORITY	:	

MEMORANDUM

Baylson, J.

November 10, 2004

On October 12, 2004, oral argument was held on Defendant's Motion for Summary Judgment. The motion was denied for reasons as stated on the record, but the Court specifically noted that the "issue of laches is reserved for further decision." The case is now listed for trial on November 17, 2004.

Defendant has filed a Renewed Motion for Summary Judgment Based on the Doctrine of Laches (Docket No. 19) and attached a Statement of Undisputed Facts. However, the Plaintiff has disputed many of these allegedly undisputed facts. In a reply brief, Defendant asserts that even as to those facts that are still undisputed, the Court can rule as a matter of law on the issue of laches or, stated somewhat differently, that given the undisputed facts, the Court can in its discretion find that the Complaint should be dismissed based on the doctrine of laches.

Defendant relies principally on Gruca v. U.S. Steel Corp., 495 F.2d 1252 (3d Cir. 1974). However, this case was brought under the Military Selective Service Act of 1967, 50 U.S.C. § 459, which does not provide for a jury trial. In that case, the district court had viewed the claim

as equitable in nature, held that the doctrine of laches governed plaintiff's demands for adjustment in job security, dates and back-pay, concluded that plaintiff's claim was not barred by laches, granted plaintiff's motion for summary judgment and awarded damages. The employer appealed; the judgment was reversed because the facts warranted a finding of laches.

The Court finds, despite Defendant's earnest contentions to the contrary, that there are disputed issues of fact relevant on the issue of laches, as to whether Plaintiff's delay was inexcusable and whether Defendant is prejudiced. However, on the basis of Plaintiff's contentions on the allegedly undisputed facts, the Court believes that the Plaintiff has set forth sufficient facts to require the Court to consider this issue during the trial. "Laches is rarely subject to summary judgment." Waddell v. Small Tubes Products, Inc., 799 F.2d 69 (3d Cir. 1986) (a § 1983 case, as in this case).

The Court determines, in its discretion, particularly because the trial will start shortly and will not be lengthy, that the issue of laches should be considered in the trial context. At the start of the trial the Court will determine the burden of proof and whether any questions will be submitted to the jury for factual findings on any issues relevant to the issue of laches. At the conclusion of the Plaintiff's case, the Court will make a ruling on the issue of laches which may be provisional or final depending on the evidence.

An appropriate Order follows.

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ORDER

AND NOW, this 10th day of November, 2004, Defendant's Renewed Motion for Summary Judgment Based on the Doctrine of Laches (Docket No. 19) is DENIED without prejudice, to be raised at trial.

BY THE COURT:

s/ Michael M. Baylson
Michael M. Baylson, U.S.D.J.