

Thursday, June 14, 2007

Simultaneous pains in the pants in Washington, DC, and Louisiana.

Â Image from public domain. Â What is it about pants that created the following bizarre behavior in Washington, DC, and in Broussard, Louisiana? Â By now, millions know about Roy Pearson's trial that commenced this weekÂ on his frivolous multimillion dollarÂ lawsuit against a Washington, D.C., family-owned dry cleaner for his allegedly missing pair of pants. The dry cleaner's owners claim they found the pants, but Mr. Pearson denied they were his. ThenÂ he rejected a settlement offer of several thousands of dollars over pants worth much less. Â Mr. Pearson awaits word whether his expired term as an administrative law judge ("ALJ") (serving the executive branchÂ of the D.C. city government, and not the judicial branch)Â will be renewed. Even if Mr. Pearson has a right in his private capacity to file such a lawsuit, does his First Amendment right to free expression preclude the D.C. government from considering Mr. Pearson's frivolous trouser lawsuit in determining whether to renew his position as an administrative law judge? Â This First Amendment issue gives me only initial cause for pause on the foregoing question. Were Mr. Pearson a government employee who merely was handling ministerial tasks (e.g., drafting procurement contracts for the government), I think the First Amendment would come into play and would favor not considering his trouser lawsuit in determining whether to keep him in his government job, because little to no nexus would exist between the frivolous lawsuit and daily contract drafting. Â However, even with my First Amendment zealotry, I have difficulty seeing how the First Amendment precludes the D.C. government from considering this lawsuit as to his ALJ renewal bid, because the lawsuit directly relates to Mr. Pearsonâ€™s ability as an ALJ to exercise sound judicial temperament, discretion and fairness over decisions impacting litigants. ALJ work is no mere ministerial task, but instead requires careful, wise, and just adjudication. Mr. Pearsonâ€™s lawsuit and reported testimony and demeanor at his pants trial demonstrate that he is not fit to be an ALJ, and that any litigant appearing before him (should his ALJ position be renewed) should move for his recusal. Â Were Mr. Pearson not seeking to renew his ALJ position nor any other government position of significant authority and power, I would not advocate putting his motives, character, and judgment under as strong a microscope. However, he apparently asked to continue as an ALJ, and, by doing so, he has crawled under the microscope of his own volition.Â Â Mr. Pearson has some simultaneous company in bizarre pants behavior. Surely with more important things to do, Broussard, Louisiana's Town Council nevertheless found time this week to draft and pass an ordinance providing up to six months in jail and a \$500 fine for wearing pants below undergarments or so as to reveal plumber's butt. The town's mayor plans to sign the bill into law. Â One only needs to visit a local beach to see that much more is revealed there than with even the most sagging baggy or low-rise pants. Moreover, First Amendment protections should get this Broussard ordinance stricken. Although the First Amendment might not carry the day against indecent exposure statutes against revealing unclothed genitals, the Broussard pants ordinance deals more with fashion (whether in good or poor taste) free expression to show some undergarments or not, and to show some butt cleavage or not. What is next in Broussard? A prohibition against revealing breast cleavage or bras through outergarments?Â At least the Broussard pants ordinance would not pass in nearby New Orleans (two hours away), the very epicenter of free-for-all activity, particularly on Mardi Gras.Â Jon Katz.

Posted by Jon Katz in Jon's news & views at 00:30