



“IN THE KNOW:” Disorder in the Court

There is a big mess building in Philadelphia that touches the Chief Justice of the Pennsylvania Supreme Court. It draws in some of the city’s best-known lawyers and law firms. Wrapped up in it is the fate of \$200 million in state taxpayer money to build a new Family Court building.

If you’re having trouble following what’s going on, though, don’t feel bad – it’s so complicated that even people following it closely are having trouble figuring it out. We’ll try to lead you through it simply, because this matters to a lot of people. And, as you’ll see, the Committee of Seventy has an opinion about all of this too.

One thing’s clear, though – even if it turns out nobody did anything illegal, this might become a real-time window into the way business seems to get done in this city too often: powerful officials tap their friends and associates to do lucrative work at taxpayer expense.

So bear with us. We’re going to try to outline how and why this developed as clearly as we can, based on news reports so far, including some significant stories this past weekend. And we’ll try to keep you posted as this develops.

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Ok, so give me the short form: What’s this about?

We’ll try: The Chief Justice of the state Supreme Court was trying to make sure Philadelphia got a new Family Court building. It turns out the lawyer he was paying to find a new site was also working with the developer who would build the courthouse, so he was getting paid by both sides of the deal. When that fact broke in the newspaper, the Chief Justice fired him and promised a thorough investigation. Then the Chief Justice hired an old friend to “review” what happened.

So why should I care? Does this really matter?

For one, this is going to cost more than \$200 million of your tax money. Also, the Family Court building affects a lot of city residents, since it handles divorces, child support, domestic violence cases, and criminal charges against youths. The old facilities are run down, outdated, and even dangerous and advocates for a new courthouse say a better and cleaner environment will mean better and cleaner justice. The mess threatens the reputation of the Chief Justice, and maybe even the credibility of the entire state Supreme Court. Oh, and the court project, if and when it finally gets moving, will mean hundreds of much-needed construction jobs for Philadelphia.



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So it affects a lot of people. But why should we be upset about what happened?

First, it certainly looks like the people involved were mighty cozy with each other. For example, not only was the first lawyer getting paid by both sides, he was also a friend and occasional golf partner of the Chief Justice. And second, there is a lot of money involved – construction hasn't even begun and the state has already spent about \$12 million, on top of the estimated \$200 million the actual building will cost.

Did the Chief Justice know the lawyer was getting paid by both sides?

We don't know. The Chief Justice, Ron Castille, keeps changing what he tells the newspapers. At first, he said he didn't know. Then he said it was no big deal. Finally, he said the lawyer had misled him. According to the latest Philadelphia Inquirer story, the spokesman for the Chief Justice even implied the paper might get sued if it reported on the lawyer's seeming conflict of interest.

What does the lawyer say?

The lawyer, real estate attorney Jeff Rotwitt, says yes, that both the Chief Justice and his own law firm knew and had no problem with the fact that he was partnering with developer Donald Pulver, who was planning to build the courthouse.

And who is this friend who's looking into the case for the Chief Justice?

He's also a Philadelphia lawyer, William Chadwick. It just happens that Chadwick was the chief deputy to Castille, back when he was Philadelphia's District Attorney, and has done some previous consulting work for Castille, paid for with taxpayer dollars.

How can a former employee investigate a deal involving his old boss?

That's what a lot of people are asking. And it's not even clear just what Chadwick's role is supposed to be. At first, the Chief Justice promised to investigate the matter, but Chadwick's official job is just to "review" what happened with Rotwitt's contract. And these days, he even seems to be handling press inquiries for the Chief Justice, according to the Inquirer.

Is anyone else investigating? Was any of this illegal?

We don't know yet. Newspapers are reporting that the FBI is looking into it, but that takes a long time and there's no guarantee they'll find anything illegal. And anyway, the FBI's job will be to find out if laws were broken, not to talk about all of the ethical implications of the case.

Wait, why was the Chief Justice the one overseeing the courthouse project in the first place?

The Supreme Court is a pretty important institution and it looks like other parts of the government simply deferred to the Chief Justice when he took this on himself. He happens to be the court's "liaison" to the First Judicial District, which includes Philadelphia courts. He



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apparently saw it as his responsibility to make sure that the city got the new courthouse it so desperately needed.

But doesn't the state have some kind of agency that builds public buildings?

Yes, it does – that's the Department of General Services, but the head of it says he didn't want to interfere with the Chief Justice. Or, as he told the Philadelphia Inquirer, "I don't think it was our responsibility to tell these guys they were spending their money in the wrong way."

Did he say it was "Their money"?

He did, but actually it was "your money" – about \$12 million so far. Where it all went isn't clear yet, but it did pay for fees for Rotwitt and other lawyers, including Gov. Rendell's former law firm, land costs (even though the proposed site is owned by the Philadelphia Parking Authority), and design work for the new building.

The Governor's old law firm? How did they get involved?

Seems the Chief Justice hired yet another attorney in the process of finding a site for the courthouse, and his job was to lobby the governor to make very sure he agreed to spend the \$200 million the state had set aside for the courthouse. That attorney just happened to be John Estey, the governor's ex-chief of staff and a partner at the law firm of Ballard Spahr.

Is that legal, for the former chief of staff to be lobbying his former boss?

In many other states and the federal government, that would be illegal. But there is no law against it in Pennsylvania. In fact, the Philadelphia Inquirer reports that Estey had done work for the governor on the courthouse project while he was still Rendell's chief of staff.

You say the Committee of Seventy has a position on the courthouse controversy?

We've called for a thorough, independent investigation (presuming you can find someone around here that's actually independent enough to do it). We've also said the Family Court project should stop for the moment. As a practical matter, we believe, there are too many court fights and legal questions to start building before this fall, when we elect a new governor, who will have a lot of influence on the future of the project. We think it would be prudent to hold off construction so the public and the new governor can be sure that the process is honest.

What have other people said?

The Inquirer Editorial Board has called for Castille to step down as chief justice (but not leave the court). The Bar Association, which represents the city's lawyers, has said it will wait until all investigations are over to comment on Castille. But many people who work with the Family Court, including the Bar Association, say the new building should be built as soon as possible, preferably on the site Castille was working on, at 15th and Arch streets in Center City.



But can the state just start construction immediately?

Probably not. For one thing, the Philadelphia Parking Authority, which owns the site, and developer Donald Pulver are fighting in court over whether he still has the right to build anything on the property or whether the state can build the courthouse without him. To make matters worse, there's a big legal fight over who even owns the architectural design that Pulver was going to use to build the courthouse.

Can't the state just find a new site?

Sure, but that would cost extra money and time. Supporters of a new courthouse say they need to get moving now on the site we've already picked. Not only are the old facilities terribly run down, advocates fear the next governor might take back the construction money. Both major candidates in this year's election are from Pittsburgh and courthouse advocates worry whoever wins may decide that a new courthouse in Philadelphia isn't the state's responsibility after all.

What does Gov. Rendell say?

He has said the project should go forward – he's ready to release the \$200 million the state had set aside for the project. The Governor reportedly wants to get the project moving before he leaves office (he was not allowed to run for reelection this year because of term limits), in part because he wants to make sure that the old courthouse is turned into some kind of commercial project – maybe a hotel – to help bring more life to the Ben Franklin Parkway.

So what happens next?

Not clear. Everyone is waiting to see what comes out of the investigations. We still don't know, for example, exactly how much the Chief Justice knew about the seeming conflict of interest by Rotwitt, or whether federal investigators think any laws were broken. And as long as people keep leaking e-mails and documents to the newspapers, there will be plenty more stories.

How can I find out more?

The story is more complicated than we have laid out here. Both the Philadelphia Inquirer and the Legal Intelligencer, a paper for Philadelphia's legal community, have followed this story closely. The Inquirer has some of those stories online, though most of the Intelligencer archive is only available to subscribers. Here's the latest Inquirer story with some links to older stories: <http://www.philly.com/philly/news/homepage/99184789.html>

This is part of our "In the Know" series, explaining important issues that affect Philadelphia. How did we do in explaining this particularly complicated story? We'd like to know what you think. Email us at info@seventy.org.