

# ATLANTIC COMMONWEALTH SUPREME COURT

## IN RE: A.B. 107: ESTABLISHMENT OF INFERIOR COURTS ACT

No. 16-07. Filed November 1, 2016

THE CHIEF JUSTICE, for a unanimous court

### I. Introduction

On November 1<sup>st</sup>, /u/lobbyistformonsanto—henceforth “petitioner”—filed a petition with this court. Petitioner inquired as to the constitutionality of Public Law A.B. 107: Inferior Courts Establishment Act (henceforth “the Act”), citing numerous violations of the constitution. Such inquiries included asking whether this bill violates the speedy trial clause or the vagueness doctrine.

The Act became law on the 22nd of October. The primary function of the Act is to establish courts inferior to this one, empowering the Governor to establish up to three total inferior courts. The Act does not specify a maximum number of judges that may be allowed to sit on a court at a time.

Petitioner first argues against the Act by claiming that the law is vague because it does not establish a maximum number of judges that may be on any of the three courts inferior created. Proceeding then, petitioner asks whether the Act violates the vagueness doctrine.

Petitioner then raises a question with regards to the Governor’s powers as prescribed in A.B. 107, asking whether the Governor would be able to fill any of the three courts with a theoretically unlimited number of people. Petitioner then argues that should the answer be of the affirmative, then the Act would be a clear violation of the speedy trial clause.

The respondent did not rebut at all, so it can be assumed that the respondent does not have any interest in defending the Act and therefore does not support it.

No briefs *amici curiae* were submitted.

Petitioner did not submit any additional arguments.

### II. Response to Petitioner

Petitioner first argues that the because the Act does not establish a maximum number of judges that may be on any of the three courts at a time, the Act is vague. As stare decisis teaches us, we must look to past cases when determining the Act's constitutionality. /u/SancteAmbrosi, J., wrote in concurrence

The vagueness doctrine applied by this Court many times throughout its history has affirmatively worked to protect the substantive and procedural rights of this nation's many citizens. When a law is so vague that an individual is incapable of understanding what actions would create liability on the part of that individual, such a law is utterly reprehensible to the fabric of a just society. *In Re: Public Law B.137 (Gang Activity Prevention Act)*, 100 M.S. Ct. 115 (2016).

Justice Ambrosi tells us the most fundamental thing about the vagueness doctrine: that is only in the most reprehensible and flagrant cases of vagueness can a law be stricken in its entirety.

As petitioner points out, the Act gives the Governor effective control over the entire judiciary without any recourse other than impeachment. This impedes upon any previously existing notion of judicial autonomy or impartiality. Not only that, but the Act can only serve to frustrate any sort of deliverance of justice should the Governor or his government be the respondent. As petitioner correctly demonstrates, due to the Act's vagueness, the Governor is given the ability to usurp the judiciary, as the Governor is empowered to create three separate courts. As no hierarchy is promulgated within the Act for these courts, it can be assumed that either 1. The courts decide for themselves; or 2. The Governor himself decides the hierarchy of these three courts. Such reprehensible lack of any sort of structure is grounds for the Act being thrown out in its entirety. The Act remains to be an enigma when attempting to work at the finer details.

To answer Petitioner's first question: Yes. The act does violate the vagueness doctrine as demonstrated above. For this reason alone, the act shall be stricken in its entirety.

Yet, this is not the sole flaw of the Act. Due to its vagueness, the law creates an easily executable mechanism for the executive to obstruct trials as Petitioner demonstrates. Whilst not delving too far into detail, Petitioner mentions the test established in *Barker v. Wingo* 407 U.S. 514, 536 (1972) for determining if the Sixth Amendment right to a speedy trial was violated. This test cannot be specifically be applied to the Act. However, under the Act, the Governor would be able to *legally* obstruct justice. This is reprehensible. Thus, it must be said again: this law is struck in its entirety.

To provide short answers to Petitioner:

1. The Act does indeed violate the vagueness doctrine due to its enigmatic and indecipherable statutes.
2. Yes. The Act allows the Governor to appoint an unlimited number of judges to any of the three courts inferior established in the Act.
3. No, the Act does not violate the sixth amendment. However, it allows for the Governor to easily and legally obstruct the right to speedy trial.

### III. Conclusion

The act is struck in its entirety due to its incredible vagueness and reprehensible nature.

*It is so ordered.*