

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

v.

06 CV 15173 (SCR)

VILLAGE OF PORT CHESTER,

Defendant.

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DECLARATION OF DOMINIC L. BENCIVENGA

DOMINIC L. BENCIVENGA, pursuant to the provisions of 28 U.S.C. Sec. 1746,
declares as follows:

1. I reside with my family at 51 Perry Avenue in Port Chester, where I have lived for 23 years.
2. My daughter and two step-sons have all attended Port Chester schools.
3. I have been a member of the School Board of the Port Chester-Rye School District for the past 11 years.
4. I have been involved as an active participant in the Port Chester schools for over 22 years.
5. Beginning in 1984, I became involved in the schools as a member of the magnet school committee, and have subsequently through the years served as a member of the football booster club, finance committee and superintendent selection committee, among other groups and committees.

6. In addition to these formal roles, I have also attended countless meetings of the School Board.

7. In addition to my direct participation in the schools, I have also served through the years as President of the Sound Shore Youth Foundation, President of the Port Chester Midget Football League, Chairman of the Westchester County Youth Board, member of the Port Chester Planning Commission, member of the Port Chester Housing Authority and member of the Carver Center Board.

8. Through my service in various school, community and youth groups, and through attendance at school meetings, I began to put in the time and effort necessary to get to know the other committed people active in the schools, and to learn and become immersed in the issues important to the schools.

9. After laying this foundation, I decided to run for School Board in 1991. Despite my involvement and experience, I lost the election.

10. I decided to run again in 1993, and lost that election as well.

11. Undeterred by these defeats, I continued to remain active and involved in the schools, and continued to attend numerous School Board meetings.

12. I ran a third time in 1995, and finally was elected as a member of the School Board. Through what I believe has been my hard work, commitment and years of service to the schools, I was re-elected in 1998, 2001 and 2004.

13. In the 1991 election, I placed a distant third in a four-way race for a seat on the Board, behind Mr. Fischer (an experienced incumbent) and Mr. Rodriguez (a first-time candidate).

14. To the best of my recollection, Mr. Fischer and Mr. Rodriguez finished in almost a dead heat in 1991. As such, a re-vote was conducted. As both Mr. Fischer and Mr. Rodriguez had both already received significantly more votes than I did, I opted not to participate in that re-vote. Mr. Fischer prevailed in that re-vote.

15. In my opinion, Mr. Rodriguez was a very good candidate, and was well-known due to his family's good name, and through his participation in school band functions. I believe that if he had been persistent in running again for School Board, and if he had continued to get involved in more district-wide activities, he would have easily won. Unfortunately, since he lost his first election those many years ago, Mr. Rodriguez never ran again, and to my knowledge never pursued more district-wide activities.

16. In the 1993 election, I was again defeated by a relatively large margin by Ms. Capeci, a well-known candidate within both the schools and the community at-large based on her many years of service as both the School District Clerk and the Village Clerk, and her husband's local business.

17. In 1995, I was finally elected to my first three-year term by a margin of just 31 votes.

18. In 1995 and in subsequent elections, I believe that I had the support of most Hispanic, African-American and white voters, based on my conversations with the parents and individuals who were active in the schools and who actually attended school functions and school meetings.

19. During all of my campaigns, I always make it a point to campaign in all areas of the district, and even hold open meetings in various neighborhoods and buildings.

20. I am proud to have received the support of Hispanic and African-American leaders such as Jose Santos, Tina Faust and Wanda Irving.

21. During my terms on the School Board, I have had occasion to observe other School Board elections that have taken place.

22. In 1996, in the race for one of two seats, Ms. Capeci (the popular incumbent and former School District Clerk to whom I had lost in 1993) was challenged by Mr. Reavis (a first-time candidate). Ms. Capeci prevailed in that election.

23. In my opinion, Mr. Reavis was a very good candidate, based on his leadership, knowledge and good work at the Carver Center. In fact, I supported and worked with Mr. Reavis during this election. I believe that if he had been persistent in running again for School Board, he would have easily won. Unfortunately, since he lost his first election those many years ago, Mr. Reavis never ran again. However, I have been grateful that Mr. Reavis has supported me in my subsequent re-election campaigns.

24. In 1996, in the race for the other of two seats, Mr. Lupo (a long-time school activist) narrowly defeated Mr. Federico (the incumbent). Finishing far behind in third place in that race was Ms. Kemp (a first-time candidate).

25. Prior to 1996, in all of my years of service and involvement with the schools, I had never seen nor heard of Ms. Kemp. I do not recall that she participated in any school committees, nor do I recall that she even attended any of our School Board meetings, except for maybe the one or two meetings immediately preceding the election.

26. In 1996, I do not believe that Ms. Kemp had the support of most Hispanic, African-American and white voters, based on my conversations with the parents and

individuals who were active in the schools and who actually attended school functions and school meetings.

27. In 1997, Ms. Kemp ran again and again finished last. This was not surprising to me since, in addition to still being almost a complete newcomer, she had still done virtually nothing to become involved in the schools, other than to apparently put her name on the ballot.

28. In 1997, I do not believe that Ms. Kemp had the support of most Hispanic, African-American and white voters, based on my conversations with the parents and individuals who were active in the schools and who actually attended school functions and school meetings.

29. In 1998, Ms. Kemp ran again, this time as the sole candidate challenging me in my bid for re-election. I overwhelmingly defeated Ms. Kemp.

30. In 1998, I believe that I received the overwhelming support of all voters – Hispanic and non-Hispanic alike – based not just on the sheer margin of my victory, but also based on my conversations with the parents and individuals who were active in the schools and who actually attended school functions and school meetings.

31. I do not believe that Ms. Kemp actively campaigned during the 1998 election. I do not recall seeing Ms. Kemp at any school events, except perhaps for the one or two school board meetings immediately preceding the election.

32. In any event, despite her failure to campaign, Ms. Kemp had continued to fail to take any interested role in school meetings or issues in the two short years since she had appeared on the ballot for the first time. Not surprisingly, despite my continued

involvement in the schools, I have not seen nor heard of Ms. Kemp for close to the past decade.

33. In 2001, I was re-elected in a race against a first-time challenger, Ms. Brakewood.

34. I believe that Ms. Brakewood was a very good candidate. She was very knowledgeable about the issues and came from a family that is very active in the community. Notably, her husband is currently a member of the Port Chester Village Board. If she had been persistent and run again, I believe she would have had an excellent chance of winning. Unfortunately for her, she never ran again.

35. In 2002, Ms. Capeci and Mr. Lupo (the popular long-time incumbents and activists) defeated the challengers Ms. Bravo (a first-time candidate) and Ms. Parris (also a first-time candidate).

36. Prior to 2002, in all of my years of service and involvement with the schools, I had never seen nor heard of Ms. Bravo or Ms. Parris. I do not recall that they participated in any school committees, nor do I recall whether they even attended any of our School Board meetings. In any event, I have not seen nor heard of Ms. Bravo or Ms. Parris since their only failed attempts to run.

37. In 2002, I do not believe that Ms. Bravo or Ms. Parris had the support of most Hispanic, African-American and white voters, based on my conversations with the parents and individuals who were active in the schools and who actually attended school functions and school meetings.

38. In 2004, I was re-elected in a race against a first-time challenger, Ms. Alvarado. I recall that Ms. Alvarado did not bother attending the candidate interviews conducted by

the local papers. In fact, I recall that the first and only time I even saw Ms. Alvarado during the campaign was on election night.

39. Prior to 2004, in all of my years of service and involvement with the schools, I had never seen nor heard of Ms. Alvarado. I do not recall that she participated in any school committees, nor do I recall that she even attended any of our School Board meetings. Since 2004, I have neither seen nor heard of Ms. Alvarado.

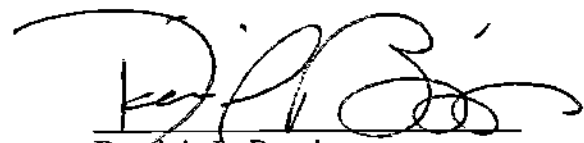
40. In 2006, Mr. Dreves and Mr. Mutino (the popular long-time incumbents and activists) defeated the challenger Ms. Collins (a first-time candidate).

41. I recall that during the election, Ms. Collins made busing an issue, which was a highly unpopular issue among all voters, and an issue that had already been defeated by the voters during a previous referendum.

42. In any event, prior to 2006, in all of my years of service and involvement with the schools, I had never seen nor heard of Ms. Collins in reference to any school activities. I do not recall that she participated in any school committees, nor do I recall whether she even attended any of our School Board meetings. In any event, I have not seen nor heard of Ms. Collins since her failed attempt to run last year.

I swear under penalty of perjury that the foregoing is true and correct.

Dated: January 19, 2007
Port Chester, NY


Dominic L. Bencivenga