9-12-1979

Chiappe v. State Personnel Bd.

NO. 79 SA 63

IN THE

SUPREME COURT

OF THE

STATE OF COLORADO

SALVATORE CHIAPPE and MICHAEL KAUFMAN, Plaintiffs-Appellants, v. STATE PERSONNEL BOARD, and the members thereof, JOHN BARNARD, THORNLEY WOOD, SHELBY HARPER, RUTH LURIE, and LINCOLN L. BACA; UNIVERSITY OF COLORADO BOULDER CAMPUS; JAMES SCHAEFFER and ARTHUR INGRAHAM, Defendants-Appellees.	Appeal from the District Court of Boulder County Honorable MURRAY RICHTEL Judge

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ANSWER BRIEF

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ANSWER BRIEF

STATEMENT OF THE ISSUES

1. Whether equal protection and state constitutional claims are properly before the court.

2. Whether the hearing officer, State Personnel Board and the district court properly concluded that appellants were afforded procedural due process.

3. Whether the district court properly concluded that a no-beard policy for state food service workers was rationally related to the state's legitimate goal in promoting public health.

4. Whether the district court properly concluded that the State Personnel Board's decision upholding appellants' terminations was supported by substantial evidence

in the record.

5. Whether the state constitution provides greater protection of appellants' interests than its federal counterpart.

STATEMENT OF THE CASE

All folio cites unless otherwise indicated refer to page numbers in the record of the administrative proceedings as opposed to that from the district court. Appellants Chiappe and Kaufman are referred to as "employees" and appellees as the "state" or the "university."

Messrs. Chiappe and Kaufman were hired as food service workers at the University Memorial Center of the University of Colorado in the fall of 1974, at which time they both had beards (67, hearing officer's findings of fact). They were certified in the State Personnel System in January 1976 (67).

In May, 1976, Arthur Ingraham became manager of the UMC Food Services (68). He found a need to upgrade the food services operations and decided to implement a hair restraint policy which included a no-beard rule (68). This policy had been in effect for several years but it apparently had not been enforced by past management (20-21, joint exhibits 1 and 2). The no-beard policy for food service workers was derived from state and county health regulations which Ingraham considered to be minimum standards as well as memoranda from the campus health inspector and university sanitarium interpreting those standards and articulating the need for a no-beard policy. The latter opinions were derived from the fact that no viable means existed to successfully prevent food contamination from beards as opposed to that from head hair, either from direct fallout or indirect finger contact (20-21, joint exhibits 1 and 2).

On May 27, 1976, a little over two weeks after Ingraham came on the job, the food service supervisor informed the two employees in writing that as of June 7, all UMC Food Service workers must be clean shaven except for trimmed mustaches and/or sideburns (22, respondents' exhibit 3). Both Mr. Chiappe, who returned from vacation on June 7 and received notice on that day (3, 24, 26), and Mr. Kaufman, who received notice on May 27 (25, 27), failed to shave their beards, and on June 8 were suspended without pay for seven days (24, 25). They were told their jobs would be available if they decided to comply with the no-beard directive; otherwise, they would face termination (24, 25). They were provided with copies of the no-beard policy memos on June 8 (26, 27).

Both employees returned to work on June 15 with beards intact (26, 27). James Schaeffer (the UMC director and appointing authority designee), after being advised of their refusal to abide by the departmental rule (65, 66), met with them on the 15th and discussed their failure to comply with the no-beard directive. Both repeated their resolve not to comply (69). For this refusal, they were terminated from their jobs (26, 27). The termination letters were both hand delivered and sent by certified mail in accordance with State Personnel Board rules (69).

Chiappe and Kaufman appealed the termination (3-6), and a hearing before a personnel board hearing officer was scheduled for August 11, 1976 (7-10). The hearing officer's initial decision upheld the terminations, finding that the no-beard policy "is directly concerned with the promotion of clean and sanitary food service activities in the dining facilities ... and as such is directly job related to the food service employees" (69, finding No. 15). He further found that the procedural due process guarantees of the

state constitution, statutes and personnel rules had been fully complied with by the employer (75-77, initial decision).

The initial decision, dated August 23, 1976, was appealed to the board (11-17, 80-86) and, after argument (93-94), was affirmed (101, 102). Chiappe and Kaufman filed an action for judicial review of the personnel board's decision in the district court (district court record 1-4). This action was dismissed by the district court following review of the record, briefing and oral argument wherein the court concluded that the board decision was supported by substantial evidence and that the regulation was rationally related to the state's legitimate interest in the promotion of public health and safety (district court record, 51-55). The present appeal was then made to the court of appeals with jurisdiction subsequently taken by this court.

SUMMARY OF THE ARGUMENT

1. Equal protection and state constitutional claims are not properly before the court.

2. The hearing officer, State Personnel Board and the district court properly concluded that appellants were afforded procedural due process.

3. The district court properly concluded that a no-beard policy for state food service workers was rationally related to the state's legitimate goal in promoting public health.

4. The district court properly concluded that the State Personnel Board's decision upholding appellants' terminations was supported by substantial evidence in the record.

5. The state constitution provides no greater protection of appellants' interests than its federal counter-

part.

ARGUMENT

I.

EQUAL PROTECTION AND STATE CONSTITUTIONAL CLAIMS ARE NOT PROPERLY BEFORE THE COURT.

Messrs. Chiappe and Kaufman's case consists of a constitutional challenge to a grooming policy applied to food service workers employed by the University of Colorado on the grounds that the regulation is an impermissible restriction upon their right to wear beards. They were terminated from their employment for their refusal to comply with the no-beard portion of the policy.

Chiappe and Kaufman argue that the liberty clause of the fourteenth amendment of the United States Constitution provides protection for their choice in personal appearance. They further argue that they were deprived of this constitutionally protected interest without due process of law. Much of their opening brief is devoted to a discussion of constitutional doctrines and terms, including substantive due process, fundamental interests, equal protection, compelling state interest, tailoring requirements, overclassification, procedural due process and means oriented scrutiny.

Many of these concepts are inapplicable to the case at bar. The terminated employees have not at any time asserted that they have been denied equal protection of the laws and therefore, questions of overclassification and the use of the old two-tiered equal protection test as opposed to the newer sliding scale approach are not relevant to the present inquiry.

Further, they attempt to expand their claims in this case to include rights predicated on article II, sections 3 and 25 of the Colorado Constitution for the first time on

appeal. These state constitutional questions are not properly before the court because they were not raised nor ruled upon at either the hearing officer administrative board or district court level. County Court v. Ruth, 575 P.2d 1 (Colo. 1977); Hessling v. City of Broomfield, 563 P.2d 12 (Colo. 1977). If, however, the court chooses to consider the merits of the state constitutional claims, they are addressed on part V of this brief.

II.

THE HEARING OFFICER, STATE PERSONNEL BOARD AND THE DISTRICT COURT PROPERLY CONCLUDED THAT APPELLANTS WERE AFFORDED PROCEDURAL DUE PROCESS.

The employees argue that their rights to procedural due process have been denied in this case.

It is clear from the record that the employees received notice of the grooming regulations (22, 23, 69, finding of fact No. 11), were given an opportunity to discuss the problem with their appointing authority prior to action being taken as required by state personnel rules (69, 75-77), and were given notice of their suspension for failure to comply with the regulation (24, 25, 69). A second meeting was held and notice given of their terminations for wilfully refusing to comply with the regulations (1, 2, 26, 27, 69). They received notice of hearing on the terminations, were entitled to be represented by counsel, to subpoena witnesses and to cross-examine witnesses called on the state's behalf (7-9). They were then permitted to appeal the hearing officer's decision to the State Personnel Board without the preparation of a transcript (18, 19, 78-90). Notice of oral argument before the State Personnel Board was given (93-94), as well as the board's decision upholding the hearing officer together with an advisement of their right to appeal to the district

court for judicial review (101-103).

The record clearly establishes that the employees were provided their rights to procedural due process as guaranteed by the fourteenth amendment of the United States Constitution, article XII, section 13(8) of the Colorado Constitution, C.R.S. 1973, 24-50-125(1) and State Personnel Board rules which provide for hearings and other procedural safeguards in the event a certified state employee is terminated from his employment. There is no colorable claim of denial of procedural due process in this case. Harrah Independent School District v. Martin, ___ U.S. ___, 99 S. Ct. 1062 (1979).

III.

THE DISTRICT COURT PROPERLY CONCLUDED THAT A NO-BEARD POLICY FOR STATE FOOD SERVICE WORKERS WAS RATIONALLY RELATED TO THE STATE'S LEGITIMATE GOAL IN PROMOTING PUBLIC HEALTH.

The remaining issue properly before the court is whether the regulation in question impermissibly infringes upon a substantive right of employees so as to violate their due process rights protected under the fourteenth amendment of tne United States Constitution. Chiappe and Kaufman correctly argue that the due process clause protects substantive aspects of liberty against impermissible governmental restrictions. Harrah Independent School District v. Martin, supra; Kelley v. Johnson, 425 U.S. 238 (1976). However, as they also admit (opening brief at 6), the interest they assert in their personal appearance is not a fundamental one, and therefore not entitled to the same level of protection and judicial scrutiny as where governmental action affects "the individual's freedom of choice with respect to certain basic matters of procreation, marriage and family life." Kelley v. Johnson, supra. See Roe v. Wade, 410

U.S. 113 (1973); Eisenstadt v. Baird, 405 U.S. 438 (1972); Stanley v. Illinois, 405 U.S. 645 (1972); Griswold v. Connecticut, 381 U.S. 479 (1965); Meyer v. Nebraska, 262 U.S. 390 (1923).

Therefore, where a nonfundamental interest is at stake, a line of cases from the United States Supreme Court, federal appellate and district courts, as well as state cases from other jurisdictions, have clearly articulated the test of judicial scrutiny to be applied in cases in which regulations are challenged by public employees. The leading case in the area of grooming restrictions for public employees is Kelley v. Johnson, 425 U.S. 238 (1976), in which the Supreme Court upheld a police grooming code as being rationally related to the goals of safety, uniformity and esprit de corps. In Kelley, the court found it unnecessary to decide whether an individual's interest in his personal appearance was protected by the liberty clause of the fourteenth amendment for the resolution of the case.

Instead, the court pointed to the highly significant fact that the policeman was asserting fourteenth amendment protections not as a private citizen but as a public employee, and noted that there may be comprehensive and substantive restrictions on acts of federal and state employees. The majority went on to say that where first amendment problems were not at stake (as they are not in the case at bar) and where only general fourteenth amendment substantive liberty protections are involved, there is even more room for restrictive regulations. Administrative regulations governing public employees are to be given the presumption of legislative validity, and the test is not whether the state can establish a genuine public need for the policy, but whether the employee can demonstrate that there is no rational connection between the regulation and the goal being promoted

by the governmental entity. The courts are not to weigh policy arguments or to rule on hair styles, but are to decide whether the regulation is so irrational as to be arbitrary and therefore constitute a deprivation of an employee's liberty interest in his freedom to choose his own hairstyle. Kelley v. Johnson, supra, at 248.

The test set forth in the Kelley case has been relied upon by many courts in the resolution of challenges to regulations on the basis of asserted constitutionally protected interests. In Ball v. Board of Trustees, 584 F.2d 684 (5th Cir. 1978), cert. denied 99 S. Ct. 1535, the dismissal of an untenured high school teacher for his refusal to shave his beard was upheld and the liberty interest found to be insubstantial since his choice of a beard had no effect upon his ability to earn his livelihood. The seventh circuit recognized the possibility of a math teacher/bus driver's liberty interest in having a mustache in Pence v. Rosenquist, 573 F.2d 395 (7th Cir. 1978), vacated a summary judgment for the defendants and remanded to the trial court for an evaluation of the relationship of the rule to the purpose stated by the school authorities. A police grooming regulation was held not to violate the due process clause in Marshall v. District of Columbia Government, 559 F.2d 726, (D.C. Cir. 1977).

In East Hartford Education Association v. Board of Education, 562 F.2d 838 (2d Cir. 1977), the second circuit (on petition for rehearing en banc at 562 F.2d 856) upheld a shirt and tie regulation for junior high school teachers, relying upon Kelley and Quinn v. Muscare, 425 U.S. 560 (1976). The court recognized that even though policemen are different from teachers, the test is the same and therefore the dress code was to be presumed constitutional and the right asserted was far from fundamental. In Jacobs v. Kunes, 541 F.2d 222

(9th Cir. 1976), cert. denied 429 U.S. 1094, the court upheld a grooming regulation which resulted in the termination of employees of the county assessor's office for noncompliance, pointing out that the standard of review was that established for economic regulations. See Williamson v. Lee Optical Company, 348 U.S. 483 (1955). See also Kamerling v. O'Hagan, 512 F.2d 443 (2d Cir. 1975), cert. denied, 425 U.S. 942 (1976) (predating Kelley, but upholding a regulation banning beards for firemen where it met the reasonable relationship test).

Federal district courts have upheld regulations where the employees have failed to meet their burden of establishing a lack of any rational relationship between the rule and its purpose, Baker v. Cawley, 459 F. Supp. 1301 (S.D.N.Y. 1978) (different disciplinary treatment for police and other employees). See Hayes v. City of Wilmington, 451 F. Supp. 696 (D. Del. 1978) and Ahearn v. Digrazia, 412 F. Supp. 638 (D. Mass. 1976), affirmed 429 U.S. 876 (both upholding the reasonableness of a regulation imposing discipline of firemen by duty without pay). See also Yarbrough v. City of Jacksonville, 363 F. Supp. 1176 (M.D. Fla. 1973), affirmed without opinion 504 F.2d 759 (5th Cir. 1974) (predating Kelley but upholding haircut regulations for firemen where the court refused to substitute its judgment for the expertise of the officials who promulgated the regulations in the absence of arbitrariness and held that the right of personal expression may be subject to minor restrictions where the public safety is concerned).

In addition, state courts have upheld the reasonableness of hair regulations for employees, see Sheppard v. Dekalb County Merit Council, 144 Ga. App. 115, 240 S.E.2d 316 (1977) (dismissal reversed for inadequacy of notice), In the Matter of Gary W. Geiger, 337 So. 2d 549 (La. App.

1976) (challenge by a classified driver for the fire department who refused to trim his mustache). In Brooks v. TriMet, 526 P.2d 599 (Or. App. 1974), the court of appeals in a thoroughly reasoned opinion rejected a bus driver's challenge to a no-beard policy because the employer had the authority to promulgate the regulation, and since it was reasonably related to defendant's interest in maximizing ridership it did not violate the employee's federal due process rights. See also Morrison v. Hamilton County Board of Education, 494 S.W.2d 770 (Tenn. 1973), cert. denied 414 U.S. 1044 (upholding the dismissal of a tenured teacher for refusal to comply with a no-beard policy).

It is interesting to note that Robert O'Neil in the ACLU Handbook on Rights of Government Employees (1978) discusses Kelley v. Johnson and observes that the court has adopted a new and rather lax standard of review: whether a rational connection exists between the regulation and its purpose.

In the case before the court, the regulation against beards for food service workers is intended to promote public health and safety. This is clearly a legitimate exercise of the state's police power. People v. Kogul, 179 Colo. 394, 501 P.2d 738 (1972); Love v. Bell, 171 Colo. 27, 465 P.2d 118 (1970). The only remaining question is whether the employees have proved that the regulation is not rationally related to the legitimate state purpose so as to be arbitrary and therefore an impermissible restriction of their asserted interest in their personal appearance.

The specific purpose of the regulation is to minimize the danger of bacterial contamination by bearded food service employees who work in the areas in which food is prepared, stored or served or who come into contact with food and/or utensils (21). The danger consists of the possible transmis-

sion of bacteria from the facial hair to the food by finger contact or direct fallout (20, 21). The hearing officer (69, finding of fact No. 15), the State Personnel Board (102, adopting the findings of the hearing officer) and the district court (district court record 53) all concluded that the regulation was not arbitrary and was rationally related to the legitimate interest of the promotion of health in food service establishments.

Chiappe and Kaufman argue that the regulation does not provide a less intrusive alternative to the ban on beards and for this reason should be struck down. The "less drastic means" analysis is limited to cases where fundamental personal liberties are at stake. Shelton v. Tucker, 364 U.S. 479 (1960). The cases discussed above establish that the rational relationship test is the proper one to be applied in the case of a public employee asserting a nonfundamental interest. The Supreme Court in Kelley v. Johnson, supra, clearly indicated its unwillingness to evaluate the wisdom of the rule because deference is to be given to legislative enactments (statutory or administrative) where nonfundamental interests are concerned. This relaxed standard, which precludes judicial evaluation of alternative methods of achieving the state's purpose so long as the method chosen is a reasonable one, was recently emphasized in Massachusetts Board of Retirement v. Murgia, 427 U.S. 307 (1976) in reliance upon Dandridge v. Williams, 397 U.S. 471 (1970).

Appellants also rely upon many student hair cases in support of their position. Not only are these cases distinguishable from employment cases, based on the Kelley court's distinction between protections to be afforded a citizen as opposed to a public employee, but it should also be noted that the Tenth Circuit has found no cognizable federal claim in hair cases even in the case of students. Freeman v.

Flake, 448 F.2d 258 (10th Cir. 1971), cert. denied 405 U.S. 1032.

Appellants Chiappe and Kaufman are urging this court to adopt a stricter standard of review in this case than that which has been established by the United States Supreme Court, despite the similarity between the facts of this case and those in Kelley v. Johnson and the cases which followed it. In the case of Burback v. Goldschmidt, 521 P.2d 8 (Or. App. 1974), a policeman's challenge to grooming standards on the basis that less stringent regulations should be applied, was rejected. The court noted that where there was room for disagreement on the appropriate regulations, there was room for discretion by the police officials. The rational relationship test by its very terms precludes the grafting of a "least restrictive alternative" analysis onto it. Once the question of legitimate purpose and rational means has been resolved, the judicial inquiry is at an end.

Further, it must be reemphasized that the burden of proof is on the employees to show that the policy is not rationally related to the promotion of public health, not upon the state to justify the need for the regulation. The relief sought by Messrs. Chiappe and Kaufman is another hearing where the state is to establish the necessity of the no-beard policy in order to fulfill their health objectives. This remedial request represents a clear misunderstanding of the allocated burden of proof. The employees have not established the irrationality of the regulation in this case and the district court's decision should be upheld.

IV.

THE DISTRICT COURT PROPERLY CONCLUDED THAT THE STATE PERSONNEL BOARD'S DECISION UPHOLDING APPELLANTS' TERMINATIONS WAS SUPPORTED BY SUBSTANTIAL EVIDENCE IN THE RECORD.

Appellants assert that evidence in the record does not support the regulation in that the state did not establish that beards pose a health hazard. While it is true that the state and county health regulations are silent on the question of beards (30-64, 68, finding No. 8), it is clear that they require food service workers to prevent contamination of food and utensils by maintaining high standards of personal cleanliness and hygiene (68-69, finding No. 9). Avoidance of contamination under those regulations was interpreted by university health officials to include a prohibition of beards (20, 21). The officials pointed out that beard hair cannot be contained in the same manner as head hair (20, 21). In addition, Mr. Ingraham, the food service manager, testified that these regulations simply provided minimum standards and that where he found that the UMC Food Services was in a state of disorganization, he decided to take steps to upgrade the facility (68, findings Nos. 5, 6 and 7). The hearing officer found that the no-beard policy was directly concerned with the promotion of clean and sanitary food service activities on campus (69, finding No. 15).

Messrs. Chiappe and Kaufman attack the findings of fact made by the hearing officer in the case. The sufficiency of the evidence can only be evaluated by an appellate court's review of the agency record. However, in this case the employees did not provide a full transcript for perusal by the reviewing board and courts. The abbreviated summary of testimony (89-90) does not indicate what evidence was presented with regard to the health hazard from beards. Counsel

for the university stipulated to the summary, with the proviso that it was not meant to attack the findings of fact made by the hearing officer (90). Appellants may not now argue that the findings which are contrary to their position are not supported by substantial evidence when they failed to present transcripts of the pertinent evidence to the reviewing court. In such a case, the appellate court must presume that findings are supported by the evidence. See People v. Gallegos, 179 Colo. 211, 499 P.2d 315 (1972); Taylor v. People, 176 Colo. 316, 490 P.2d 292 (1971).

Appellants now argue that less intrusive means, such as hair restraints, should nave been used, to achieve the state's goal, however the record indicates that they never requested such an alternative at the time they refused to comply with the no-beard directive (69, finding 14, where they offered no defense or mitigation at the June 15, 1976 meeting). Further, as addressed above in section III, the means scrutiny is not appropriate in this type of case.

Chiappe and Kaufman also argue that the nonenforcement of the no-beard policy prior to Ingraham's tenure undercuts the rationale for the regulation. First, it should be noted that the argument of estoppel against a governmental agency is not favored, University of Colorado v. Silverman, 555 P.2d 1155 (Colo. 1976). The state contends that the district court properly found that the university had the ability to periodically review and upgrade its food service establishments in pursuit of the public health in this case (district court record 54-55). The D.C. Court of Appeals rejected a similar argument made by a police officer who was terminated for his refusal to trim his hair and shave his beard under a regulation promulgated after his hire as follows:

> (We) know of no legal doctrine that confers upon employees a vested right to an indefinite continuance of the

> same rules and working conditions which prevailed at the date of entry into employment.

Marshall v. District Unemployment Compensation Board, 377 A.2d 429 (D.C. App. 1977) at 431.

Further, the employees argue that since they were not in fact engaged in the preparation of food, the no-beard policy should not have been applied to them even though they were classified as food service workers and performed a variety of duties relating to food preparation and cleanup (28-29). This alleged distinction in duties is not recognized by the county and state health regulations which apply to employees who work in locations where food is prepared (56) or who come into contact with food utensils or equipment (32). Since busboys work in and around the kitchen and diningroom areas and since beards cannot easily be covered to prevent contamination from contact or loose hair, it was rational for the new manager to enforce a no-beard policy.

The state contends that the record, when considered as a whole, contains substantial evidence in support of the actions taken by the university officials which were upheld by the hearing officer, the State Personnel Board and the district court. See C.R.S. 1973, 24-4-106(7); Lassner v. Civil Service Commission, 177 Colo. 257, 493 P.2d 1087 (1972). Therefore, the factual finding that the regulation was rationally related to the purpose of promoting public health is binding on this court.

V.

THE STATE CONSTITUTION PROVIDES NO GREATER PROTECTION OF APPELLANTS' INTERESTS THAN ITS FEDERAL COUNTERPART.

Finally, Messrs. Chiappe and Kaufman assert that sections 3 and 25 of article II of the Colorado Constitution

also encompass their interests in this case and provide them with greater protection against the state's regulation affecting their choice of appearance than does the federal constitution. The state contends that these claims are not properly before the court since they are being raised for the first time on appeal (see section I of this brief), but in the event the court chooses to address these claims on the merits the appellees submit the following response.

While it is true that state courts may interpret the state constitution to provide greater protections than its federal counterpart, the employees have not established why it should be done in this case. They again urge the court to engage in a close scrutiny of the regulation in question, arguing overclassification in reliance upon equal protection cases where a statute or regulation conclusively presumed certain facts which impacted individual rights. Both cases cited for this proposition turned on the failure of the state to provide a hearing on the individualized factual situation. There is no such failure in this case (see discussion in section II of this brief). Further, it appears from cases involving due process claims that the Colorado Supreme Court has applied the same test of rational relationship as that used by courts to resolve federal constitutional claims described above. In Gates Rubber Co. v. South Suburban Metropolitan Recreation and Park District, 183 Colo. 222, 516 P.2d 436 (1973), People v. Kogul, supra, and Love v. Bell, supra, this court stated that the due process analysis was a limited inquiry into whether the legislation was a proper subject of legislative power and whether the regulation was rationally related to the governmental purpose where a nonfundamental right or nonsuspect classification is concerned. There does not appear to be any authority for the grant of greater protection under the state constitu-

tion in this case than that afforded by the federal constitution. Appellants' state constitutional claims should be denied where the regulation is rationally related to the legitimate state purpose of safeguarding the public health.

CONCLUSION

The only issue properly before the court is whether the no-beard regulation impermissibly violated the due process rights of the terminated food service workers. The state contends that the hearing officer, the State Personnel Board and the district court properly concluded that the employees were afforded procedural due process and that the no-beard policy for food service workers was rationally related to the state's legitimate goal in promoting public health and therefore did not impermissibly infringe upon the employees' substantive liberty interest in their appearance. Further, the district court properly concluded that the State Personnel Board's decision upholding the terminations was supported by substantial evidence in the record. Finally, the state constitution provides no greater protection of appellants' interests than its federal counterpart. The district court decision should be affirmed and the appeal dismissed.

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within ANSWER BRIEF upon all parties herein by depositing copies of same in the United States mail, postage prepaid, at Denver, Colorado this 12th day of September 1979, addressed as follows:

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