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8-4-1994

Acierno v. Cloutier

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UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

NOS. 93-7456 and 93-7617

FRANK E. ACIERNO

v.

PHILIP CLOUTIER; RICHARD CECIL; ROBERT POWELL;
ROBERT WOODS; CHRISTOPHER ROBERTS; PENROSE HOLLINS;
KAREN VENEZKY; NEW CASTLE COUNTY; MICHAEL MITCHELL

Philip Cloutier, Richard Cecil,
Robert Powell, Robert Woods,
Christopher Roberts, Penrose
Hollins and Karen Venezky,

Appellants in No. 93-7456

Michael T. Mitchell,

Appellant in No. 93-7617

Present: SLOVITER, Chief Judge, BECKER, STAPLETON, MANSMANN,
GREENBERG, HUTCHINSON, SCIRICA, COWEN, NYGAARD, ALITO,
ROTH, LEWIS, and MCKEE, Circuit Judges.

O R D E R

A majority of the active judges having voted for rehearing in banc in the above appeal, it is O R D E R E D as follows:

1. The Clerk of this Court shall vacate the panel's opinion and judgment dated July 7, 1994.

2. The court, having voted to take the above matter as a submit, will list this case on August 30, 1994.

3. The parties may submit a contemporaneously filed brief, if they desire, limited to 25 pages on the issue of whether this court should overrule its decision in Prisco v. United States, 851 F.2d 93 (3d Cir. 1988), cert. denied, 490 U.S. 1089 (1989). Fourteen copies of such brief should be filed and submitted to the Clerk's Office on or before August 17, 1994.

By the Court,

/s/ Dolores K. Sloviter
Chief Judge

Dated: August 4, 1994

