3-21-1970

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By LEONARD KOPPETT

NEW YORK, N. Y.—Curt Flood's request for a temporary injunction, which would have made him a free agent immediately, was turned down in Federal Court here March 4 by Judge Irvin Ben Cooper.

The decision, expected by lawyers on both sides, eliminated the possibility that Flood would be able to play for a team of his choice this year—and cleared the decks for an actual trial on the merits of his antitrust suit against baseball's reserve clause.

Neither the request for the injunction nor Judge Cooper's decision dealt with the real issues. The only thing at stake was an attempt to get Flood "immediate" relief.

Far-Reaching Issues

Judge Cooper rejected the plea on several grounds. One was that granting such an injunction would amount to giving Flood at once what he sought to gain in the entire action.

Another was that the far-reaching issues raised, and their effect on all baseball, should be settled by a full-scale trial and not by a preliminary injunction proceeding.

The injunction sought by Flood, who has objected to being traded to the Phillies by the Cards, would have forbidden the league clubs to agree not to negotiate with him as a free agent.

Judge Cooper said that Flood had not shown that the two conditions that justify such an emergency remedy had been met—that is, that the damage to him would be "irreparable" or that he had a good chance of winning the case eventually.

Flood's eventual victory was questionable, the judge asserted, because getting the U. S. Supreme Court to overturn a previous decision represented a "formidable" obstacle.

On the other hand, Judge Cooper expressed much approval of Flood's arguments in the course of his 55-page opinion and said, in a footnote:

"The baseball reserve rule appears excessively restrictive (far beyond that necessary to protect its aim of insuring stability of team membership, maximizing fan interest, and protecting club investments in player development). Less restrictive alternatives have been adopted in football, basketball and other professional sports. Accordingly, there appears a strong likelihood that the reserve system would be held an unreasonable restraint of trade."

The next step is up to Flood's attorneys, Arthur Goldberg of New York and Allan Zerman of St. Louis.

Curt Flood and Attorney Allan Zerman Confer After Learning the Court's Decision.

They can ask for an immediate trial, which can be a jury trial or a trial before a judge. They can wait their turn in normal pretrial procedure. They can ask for a summary judgment, in which the arguments are presented to a judge (without a full trial) and he decides. Or they can appeal Judge Cooper's denial of the injunction to a higher court.

Must Go to High Court

In any case, the matter cannot really be settled until it reaches the Supreme Court. First, there must be a trial of some sort. That decision can be appealed, by the loser, to the Circuit Court of Appeals. Only then can the decision of the appeals court be appealed to the Supreme Court and, even at that point, the Supreme Court must decide whether it wants to accept the case or not.

As outlined in Judge Cooper's discussion, the issues seem to be:

1. The Supreme Court ruled, in 1922, that baseball did not come under Federal anti-trust laws.

2. It ruled in 1953 that, although it seemed now that baseball should come under these laws, Congress had not seen fit to say so specifically, and that it would be unfair to reverse a ruling under which baseball had been allowed to operate for 31 years.

3. In 1955 and 1957, in cases that did put boxing and football under antitrust jurisdiction, the Supreme Court reaffirmed baseball's exception. It noted that this seemed illogical, but stressed the fact that baseball had been told, by the court, that it's way of operating was legal, while other sports had never been told that. In other words, the court was unwilling to upset a system that had been allowed to grow with its specific permission (even if that permission would not have been granted by the the present court).

The 1953 case is called Toolson, the 1957 case Radovich.

Judge Cooper, in his conclusion, wrote:

Players Cite Grievances

"For years professional ball players have chafed under the restrictions of baseball's reserve system; a long line of litigation so attests. Many of their grievances appear justified. Yet, regretfully, as the Supreme Court stated in Radovich, we are not writing here on a clean slate. Recognizing the equity of plaintiff's claims, we must also recognize existing, well-established and controlling precedents against his position.

"If plaintiff is to achieve by court action the fundamental changes he seeks in the reserve system, then we believe that such determination on a matter of vital importance to Organized Baseball and with such potential for opening the floodgates to litigation must at least be the result of a full trial, and not on the basis of a motion for preliminary relief.

"To grant plaintiff the preliminary injunction he seeks would work the type of unfair surprise and carry the same sort of sudden effect that the Supreme Court in Toolson was at such pains to prevent.

"Accordingly, we are constrained to deny plaintiff's motion for the extraordinary remedy of a preliminary injunction. As a matter of law, we are powerless to hold otherwise."