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**SUPREME COURT
OF NEW JERSEY**
Docket No. 089427

CHARLES KRATOVIL

Plaintiff-Petitioner,

v.

CITY OF NEW BRUNSWICK, and
ANTHONY CAPUTO, in his
capacity as Director of Police,

Defendants-Respondents.

Supreme Court

CIVIL ACTION

On Certification from a
Final Order of the Superior Court
of New Jersey, Appellate Division

Docket No. A-000216-23T1

Sat Below:

Hon. Robert J. Gilson, P.J. A.D.
Hon. Patrick DeAlmeida, J.A.D. and
Hon. Avis Bishop-Thompson, J.A.D.

**BRIEF OF *AMICUS CURIAE* NEW JERSEY
STATE LODGE OF THE FRATERNAL ORDER OF POLICE
REQUESTING TO PARTICIPATE AT ORAL ARGUMENT**

MARKOWITZ & RICHMAN
123 South Broad Street, Suite 2020
Philadelphia, Pennsylvania 19109
215.875.3100
mareman@markowitzandrichman.com
rdefortuna@markowitzandrichman.com

*Attorneys for Amicus Curiae,
New Jersey State Lodge
of the Fraternal Order of Police*

On the brief:
Matthew D. Areman (021202003)
Richard J. De Fortuna (034812000)

I. STATEMENT OF FACTS AND PROCEDURAL HISTORY

In response to the tragic home invasion and murder of United States District Court Judge Esther Salas' son and the wounding of her husband by an aggrieved attorney, the New Jersey Legislature determined that the lives of New Jersey's judges, prosecutors, and other law enforcement officials such as the New Jersey State Lodge of the Fraternal Order of Police members, current and former, and the lives of those family members who reside with them, are increasingly at risk while off duty because it is increasingly easy to locate their residences for the purposes of causing them harm. Utilizing its Police Powers, the State of New Jersey enacted Daniel's Law as a safety measure meant to protect current and former law enforcement officers and other covered individuals from harm.

Daniel's Law is not designed to protect the personal privacy or reputational integrity of any covered person. Rather, Daniel's Law is a very limited, yet specific, health and safety law designed to protect New Jersey's judges, prosecutors, and law enforcement officers by prohibiting the dissemination of the residential addresses of those covered individuals in as narrowly tailored a fashion as possible.

Plaintiff-Petitioner Charles Kratovil ("Petitioner" or "Kratovil") divulged the home information of then-Director of Police Caputo during a May 3, 2023, New Brunswick City Council meeting. In response, Director Caputo sent Petitioner a

letter “notifying him that [Director] Caputo was invoking Daniel’s Law to prevent re-publication of his home address.” Petitioner, through counsel, then submitted an Order to Show Cause with Temporary Restraints and a Verified Complaint alleging that Daniale’s Law, *N.J.S.A. 56:8-166.1* and *N.J.S.A. 2C:20-31.1*, was unconstitutional as applied, due to his status as a “journalist”. The Order to Show Cause was thereafter issued by the trial court on July 18, 2023, and the New Jersey State Lodge of the Fraternal Order of Police’s Petition to participate as *Amicus Curiae* was granted on August 11, 2023.

On September 21, 2023, counsel, including counsel for the New Jersey State Lodge of the Fraternal Order of Police, appeared before Judge Rea. Following argument, Judge Rea found that while the distance between where Director Caputo lived and where he worked was a matter of public concern, his exact residential street address was not. In addition, finding that “Daniel’s Law is designed to pre[v]ent ... well, literally – the homicide or severe physical injury of certain government officials” and their family members and that, as such, “anybody would be ... hard pressed to discern a State interest more compelling than that of preventing homicidal attacks or threats upon Judges, law enforcement officers[,] pr Prosecutors[,] or members of their family[,]” Judge Rea concluded that “protecting the lives of these covered people ... under Daniel’s Law, is a State interest of the highest order.”

Petitioner then filed a notice of appeal and sought permission to file an emergent petition first with the Appellate Division and then, after that request was denied, with this Court. That, too, was denied following consideration by the full Court. As such, the matter proceeded before the Appellate Division. Following complete briefing and oral argument, in which counsel for the New Jersey State Lodge of the Fraternal Order of Police again participated, the Appellate Division affirmed the trial court's dismissal of Petitioner's Complaint in an unpublished *per curiam* decision dated April 26, 2024.

The issues involved in this case are of significant public interest and of particular interest to all active and retired law enforcement officers. This Court's decision will have significant ramifications regarding the safety and wellbeing of active and retired law enforcement officers and their families, including the New Jersey State Lodge of the Fraternal Order of Police and its more than fourteen thousand (14,000) members, active and retired police officers and law enforcement officials represented by over one hundred, forty-five local lodges throughout the State of New Jersey. As such, the New Jersey State Lodge of the Fraternal Order of Police believes that its perspective is well-suited to assist this Court in resolving the issues involved in this case, as it has done throughout the entirety of these proceedings.

II. LEGAL ARGUMENT

The New Jersey State Lodge of the Fraternal Order of Police Should Be Permitted to Participate in Oral Argument in this Matter.

As noted above, the New Jersey State Lodge of the Fraternal Order of Police represents more than fourteen thousand (14,000) members, active and retired police officers and law enforcement officials represented by over one hundred, forty-five local lodges throughout the State of New Jersey. These members are the frontline law enforcement officials who not only engage directly with those individuals suspected of crimes, where the engagements are sometimes violent, but who are also called upon to testify directly against these same individuals in subsequent court proceedings. Their safety and the safety of their families in their homes is of the utmost importance to the New Jersey State Lodge of the Fraternal Order of Police.

Insofar as *amicus curiae* are meant to advise the Court concerning matters of fact, law, and/or of circumstances relating to the matter at hand, the New Jersey State Lodge of the Fraternal Order of Police is uniquely situated to add to the discourse, as it has since it was first granted *amicus curiae* status by the trial court. *See Keenan v. Board of Chosen Freeholders*, 106 N.J. Super. 312, 316-17 (App. Div. 1969). Further, this Court has already advised the New Jersey State Lodge of the Fraternal Order of Police that it was granted

permission to participate in this matter and has accepted its Appellate Division briefs for filing. The New Jersey State Lodge of the Fraternal Order of Police now seeks permission to further participate in this matter via oral argument, should this Court determine that such argument is necessary.

Such requests are made, and determined, by Rule 1:13-9 of the New Jersey Court Rules, which provides, in relevant part, that

[a]n application for leave to appear as *amicus curiae* in any court shall be made by motion in the cause stating with specificity the identity of the applicant, the issue intended to be addressed, the nature of the public interest therein and the nature of the applicant's special interest, involvement or expertise in respect thereof. The court shall grant the motion if it is satisfied under all circumstances that the motion is timely, the applicant's participation will assist in the resolution of an issue of public importance, and no party to the litigation will be unduly prejudiced thereby.

R. 1:13-9.

Applying the above criteria to the matter before this Court, the New Jersey State Lodge of the Fraternal Order of Police respectfully suggests that its application for permission to participate in oral argument should be granted.

With respect to the criteria by which its application is to be judged, each of the standards have been met. In the first instance, this request is submitted timely, as the Order granting the petition for certification was entered on September 20, 2024, and this Court only notified the *amici curiae* that they are

permitted to participate in this matter on September 26, 2024. Second, given the New Jersey State Lodge of the Fraternal Order of Police's representation of more than 14,000 current and former law enforcement officers covered by Daniel's Law, and more particularly, those officers most directly responsible for the investigation and apprehension of those persons from whom Daniel's Law is meant to protect against, it is uniquely qualified to assist in the discussion and resolution of this issue of public importance. The New Jersey State Lodge of the Fraternal Order of Police is well versed in the determinative law, was involved in the legislative efforts in support of the law, and should be granted the opportunity to address any issues that this Court may raise at oral argument regarding the concerns of its members or the very real impact any adverse determination may have on them.

Moreover, there is no evidence that any party to this litigation would be prejudiced by this current application, nor could there be, particularly where the New Jersey State Lodge of the Fraternal Order of Police has been an active participant in this litigation from its inception, and this Court has already accepted its appellate briefs following the grant of the petition for certification.

Given the above, the New Jersey State Lodge of the Fraternal Order of Police respectfully states that it has met its burden under *R. 1:13-9* and,

therefore, this Court should grant its motion requesting participation at oral argument, should this Court determine that such argument is necessary.

III. CONCLUSION

For the foregoing reasons, the New Jersey State Lodge of the Fraternal Order of Police respectfully requests that this Court grant its motion to participate at oral argument in this matter.

Respectfully submitted,

/s/ Matthew D. Areman
MATTHEW D. AREMAN, ESQUIRE
Atty. ID No. 021202003
RICHARD J. De FORTUNA, ESQUIRE
Atty. ID No. 034812000
MARKOWITZ & RICHMAN
123 South Broad Street, Suite 2020
Philadelphia, Pennsylvania 19109
Ph: 215.875.3100
Fax: 215.790.0668
mareman@markowitzandrichman.com
rdefortuna@markowitzandrichman.com

*Attorneys for Amicus Curiae,
The New Jersey State Lodge
of the Fraternal Order of Police*

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