

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK ..

IRVING C. FLOOD,

Plaintiff,

-against-

WILLIE K. KUHN, et al,

Defendants.

: Before:

: HON. IRVING BEN COOPER,
: District Judge.

70 Civil 202

New York, May 21, 1970

STENOGRAPHER'S MINUTES

SOUTHERN DISTRICT COURT REPORTERS
UNITED STATES COURT HOUSE
FOLEY SQUARE 7, NEW YORK
—
TELEPHONE: CORTLANDT 7-4580

2 Curtis C. Flood

3 vs.

70 Civ. 202

4 Bowie K. Kuhn, et al.

5 New York, New York.

6 May 21, 1970 - 10:15 A.M.

7 (Trial resumed.)

8 THE COURT: Good morning.

9 As I recall it, Mr. Miller had completed his
10 direct examination and I gather that he is ready to be cross-
11 examined.

12 MR. HUGHES: I have no questions, your Honor.

13 MR. KRAMER: No questions, Judge.

14 THE COURT: Very well.

15 MR. GOLDBERG: We have a few additional questions
16 we would like, with your Honor's permission, to put to
17 Mr. Miller.

18 THE COURT: Recall Mr. Miller

19 MR. GOLDBERG: But, your Honor, we have a witness
20 who has some engagements outside -- Mr. Robinson -- and
21 with your leave, and I have talked to counsel, may we put
22 him on and then call Mr. Miller, who will be with us anyhow,
23 after we finish that testimony?

24 THE COURT: Certainly.

25 SOUTHERN DISTRICT COURT REPORTERS

UNITED STATES COURT HOUSE

FOLEY SQUARE, N.Y., N.Y. 10037 TELEPHONE: CORTLAND 7-550

J A C K R. R O B I N S O N, called as a witness on
behalf of the plaintiff, having been first duly sworn,
testified as follows:

THE COURT: Please proceed.

DIRECT EXAMINATION BY MR. GOLDBERG:

Q You stated your name. What is your address,
Mr. Robinson, sir?

A 103 Cascade Road, Stamford, Connecticut.

Q Would you keep your voice up so we can all hear
you?

A Yes, sir.

Q What is your present occupation?

A I am a vice-president of a seafood franchising
company, Proteus, Inc.

Q Mr. Robinson, how long have you held that posi-
tion?

A I have been with the company two years now.

Q And prior to that time you were engaged in other
business enterprises?

A Yes, I was.

Q And before you entered the business world in
connection with various executive positions you were a
baseball player?

A Yes. I spent ten years with the Brooklyn

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2 Dodgers, and one year in the minor leagues.

3 Q Do you remember the minor league club with which
4 you were associated?

5 A Yes, sir. The Montreal Royals in the Inter-
6 national League.

7 Q Do you remember how much you were paid in your
8 first year in organized baseball?

9 A \$5,000, yes, sir.

10 Q Was that in a minor league or in the major leagues?

11 A That was in the major leagues. Organized
12 baseball, my first year I got \$600 a month.

13 Q And when did you reach the major leagues?

14 A 1946.

15 Q And that was with the Brooklyn Dodgers?

16 A Yes, sir.

17 Q This is well known, but you will pardon me if
18 I ask for the record. What position did you play with
19 the Dodgers?

20 A I started at first base and went to second base
21 and played third and played some in the outfield as well.

22 Q Mr. Robinson, do you remember your lifetime
23 batting average in the major leagues?

24 A Yes, sir. I think it was .311.

25 Q And were there years during your major league

career when you did substantially above .311?

A Yes. My highest average was .342.

Q And do you recall what year that was?

A I think it was 1949, but I am not positive.

Q You don't have one of those little cards?

A No.

THE COURT: That is the reason why I think I ought to strike the words "I think." He knows full well that's what it is.

THE WITNESS: Well, sir, I hate to dispute you but I don't know full well whether it was 1949.

THE COURT: How about your total average?

THE WITNESS: I am pretty sure it is around .311.

THE COURT: You didn't say before "around."
You said .311.

THE WITNESS: Yes, .311.

THE COURT: Aren't you positive of it? I would be if I had something like that in my favor.

THE WITNESS: .311, yes, thereabouts.

THE COURT: I actually believe he means "I think." So "I think" remains in the record.

Q Did you receive, during your baseball career, any honors or awards for your accomplishments as a baseball player?

1
2 A I was chosen Most Valuable Player in 1949,
3 and elected to baseball's Hall of Fame in 1962.

4 Q And you of course played the World's Series?

5 A Six of them, yes, sir.

6 Q And after 1956 did you continue to play baseball?

7 A No, sir. As a matter of fact, I was traded in
8 1956 from the Dodgers to the New York Giants, but I had
9 an alternative. I just didn't feel like I wanted to be
10 traded. I had been looking for an opportunity to get
11 into something that gave me some security, and in 1954,
12 about , a friend of mine started looking for the opportunities
13 that would offer me a secure future.

14 Q So is it fair to say that in 1956, therefore,
15 you retired from baseball?

16 A Yes, sir.

17 Q And you mentioned about the trade by the Dodgers
18 to the Giants. Will you tell his Honor the circumstances
19 under which you were notified of this trade?

20 A Well, we were negotiating with Mr. William Black
21 of the Chock Full O'Nuts organization hopefully to find the
22 kind of position that would give us a secure future, and
23 we got a telephone call from Mr. Buzzy Bavasi --

24 Q Who is he, Mr. Robinson?

25 A He was general manager of the Brooklyn Dodgers

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1
2 at the time.

3 MR. HUGHES: Mr. Robinson, I don't want to
4 interrupt. You use the "we." Is that an editorial "we?"

5 THE WITNESS: Yes, sir. I am sorry.

6 Q You were negotiating?

7 A Yes. I was discussing with Mr. William Black
8 and a friend, Mr. Martin Stone, what my future was going
9 to be and the potential with the Chock Full O'Nuts organiza-
10 tion. And we spent the whole day with Mr. Black, and
11 around a quarter of five I got a message that Mr. Bavasi
12 wanted to talk to me or he got in touch with me -- I don't
13 know exactly how it was -- but we discussed, anyway, at a
14 quarter to five, the fact that the Brooklyn Dodgers had
15 traded me to the New York Giants.

16 Q And you had a conversation with him on that
17 occasion?

18 A On the telephone, yes, sir.

19 Q Would you relate to his Honor what you said and
20 what was said to you under those circumstances?

21 A Mr. Bavasi called to say he would like to see me
22 to discuss something with me, and I wanted to know when,
23 and he said as soon as possible, that he had been trying to
24 reach me for a couple of days. And I said, "Well, fine. I
25 am available."

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2 Then Mr. Bavasi said something to the effect,
3 "It is not necessary. I can tell you over the telephone.
4 We just traded you to the New York Giants."
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Q Did you have something to say to him on that occasion?

A No. As a matter of fact, I couldn't very well say to him that I wasn't going to play because, as I say, I was discussing another business and I didn't want to get involved and I just told him, "Thank you very much."

There was very little discussion about the trade at that particular time.

Q Had you not received that notification, what was your actual intention about playing for any other seasons?

A Well, my actual intentions at the time were to go with the Chock Full O'Nuts organization simply because, in my view, a black man had very little chance in organized baseball to go from the playing ranks to the front office to the managerial role regardless of whether he had any ability alone or not, and I had to protect my family as best I possibly could, and at thirty-five, thirty-six years of age there's no telling where you are to go, so I don't believe that I would have played another year except we got such a good offer from the Giants after we had made our decision, that I went to Mr. Black and discussed possibly doing something or he called me in and said, "I think you ought to accept this offer," because they had now decided that the money that was involved in the trade, instead of

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2 going to the Dodgers, would go to me, at least, this is what
3 they told me, if I played, and Mr. Black, in hearing the of-
4 fer, thought that it was such a good offer that I ought to
5 take it. But the fact that Mr. Bavasi then came out with
6 a statement that the only thing that I was doing when I was
7 refusing to play was trying to get more money so angered me
8 that nothing would have kept me in baseball at that particu-
9 lar time.

10 Q And that is when you made the decision to retire
11 from baseball?

12 A Correct.

13 Q Now, during your long, and if I may say so, illus-
14 trious career as a baseball player, have you followed the
15 careers of ballplayers on your team and other ballplayers?

16 A Yes, sir, I have.

17 Q And have you followed it since that time as a man
18 who had played a great role in organized baseball?

19 A I have followed it, but not in the manner that I
20 think a player generally would. I am not one, Mr. Justice,
21 to look back on what happened. I knew that my career in
22 baseball was nil and I just put it aside, and I think it is
23 really a tragedy that even today --

24 MR. HUGHES: Your Honor, I move to strike that out.
25 I think we are in an area here where we are interested in

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2 facts that are relevant to the issues before you, and I think
3 Mr. Robinson's mental processes are neither competent nor
4 relevant nor admissible.

5 THE COURT: I sustain the objection.

6 Mr. Robinson, it is perfectly natural for one so
7 filled with the entire subject to go forward in the way that
8 you have, and it is natural and understandable, but according
9 to the rules of evidence in a courtroom you must only answer
10 the particular question that is put to you; unless you are,
11 asked to enlarge upon a particular event.

12 So would you be good enough not to expand on your
13 answers unless the opportunity is presented to do so.

14 THE WITNESS: Yes, I will do the best I can.

15 THE COURT: Surely. Very well.

16 Q Now, Mr. Robinson, as a professional player of long
17 duration in baseball, did you study the reserve system which
18 operated in organized baseball?

19 A Yes, sir. I have studied the reserve system for a
20 long time.

21 Q And based upon your experience as a ballplayer who
22 himself was under the reserve system and your study of the
23 reserve system, do you have an opinion on how the reserve
24 clause affects a ballplayer in organized baseball?

25 A Yes, sir, I do.

Q And would you state, what is your opinion?

A Well, my opinion, sir, is that anything that is one-sided in this country is wrong, and I think the reserve clause is a one-sided thing in favor of the owners, and I think it certainly should at least be modified to give a player an opportunity to have some control over his destiny. Whenever you have one-sided systems, in my view, it leads to serious, serious problems, and I think that unless there is a change in the reserve clause that it is going to lead to a serious strike in terms of the ballplayers. I think that they are pretty well fed up with the fact that they now no longer can even elect the team that they want to play for, to start.

As I understand it, the free-agent draft now says to the player, "You have to go to a particular ball club," and you don't even have a choice there, and I sincerely believe that the reserve clause is so one-sided in favor of the owners that the players don't really have control over their own destinies.

Q Now, in your experience as a ballplayer, did you observe the operation of the reserve clause in the system which operates with respect to the question of whether a player can play or sits on the bench?

A Yes, sir.

1 THE COURT: "Yes, sir," that is the answer.

2 Next question.

3 Q And would you relate to his Honor and to all of us
4 specifically how you observed the reserve clause operating
5 in relation to the question of a ballplayer playing actively
6 or sitting on the bench?
7

8 THE COURT: Now you can go forward, as long as it is
9 apropos to the question.

10 THE WITNESS: Yes, sir.

11 A Well, the way I see it, the reserve clause does not
12 affect the \$90,000 ballplayer as much as it affects that guy
13 who sits upon the bench.

14 Q In what way?

15 A Well, he is a reserve generally, and he has to sit
16 there to wait until a regular becomes injured or something
17 before he gets a chance to display his abilities. There-
18 fore, as long as he is sitting there on that bench his salary
19 has got to remain, in my opinion, basically what it is because
20 he has no real value, or they can't express his value by the
21 way that he performs, and when that player does become injured
22 and he replaces him, in my opinion the strain affects his
23 ability anyway because he now has to prove to his manager,
24 prove to the public that he is a major league ballplayer and
25 it sometimes adds stress to his playing ability, and there-

fore it hurts his opportunity of becoming more proficient and a better ballplayer, therefore commanding more money.

Q Can you illustrate by examples within your knowledge ballplayers who were subject to this type of considerations to which you have now adverted?

A Yes, sir. I think we can take on our ball club -- we had a pretty good team; we won six championships in ten years, and we had fellows like Don Zimmer, before he was injured, I think could have been an extremely good player on another ball club, but being behind Pee Wee Reese he had very little chance of playing. And Eddie Miksis, for instance, was finally traded, but he sat behind me. And there were others on different ball clubs around, the same kind of thing, but these are the kind of guys that stand out in my mind. A Don Hoak coming up had to sit on the bench two or three years when I was there because Don couldn't push me off third base finally, therefore it hurt his chances for a few years to become a better ballplayer, to become a person to make more money in the game.

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Q Do you recall how long Don Zimmer, for example, Mr. Robinson, sat on the bench?

A I can't say for sure, but it had to be three, four years, with our ball club.

Q If I refreshed your recollection, would it not be accurate to say he sat five years?

A Well, it could very well be, sir, yes.

Q And do you recall how long Don Hoak, for example, sat on the bench?

A Well, Don, I believe, sir, was two or three years --

MR. HUGHES: Your Honor, I assume that when "sat on the bench" is being used, what we are really talking about is not being a regular, in the regular line-up, day after day.

THE COURT: Mr. Justice, would you be good enough to ask him that specific question?

MR. GOLDBERG: Yes. I would be glad to, and I had intended to ask what he meant when he said "sit on the bench."

Q Would you, Mr. Robinson, perhaps at this stage, in light of Mr. Hughes' inquiry, explain what it means when you say a man sat on the bench?

A Yes, sir. It does mean that he is a substitute, and he does sit on the bench until a regular becomes injured or something else happens that he gets a chance to play.

Q And now going back to the question I asked you about Don Hoak, would it be accurate to say, to move this along, that he sat on the bench under the circumstances you described for at least three years?

A Well, two or three years; yes, sir.

Q And Eddie Miksis about the same?

A Yes, before he was traded; yes, sir.

Q Now, do you think that the reserve system as it operates affects this system of having a reserve group of ballplayers who might otherwise have occupied regular playing positions?

A I think it definitely affects them; yes, sir.

Q Now, drawing upon your obvious expertise, do you have an opinion as to how baseball as a sport would be affected if the reserve clause and system as presently operated were modified?

A I would like to say first -- I don't know whether this is in the rules -- I don't consider baseball a sport. I think it is big business, first of all.

MR. HUGHES: I think that is wholly unresponsive.

THE COURT: Do you move to strike it?

MR. HUGHES: Yes, your Honor. I move to strike it.

Q Would you --

THE COURT: I am sorry, Justice Goldberg. We must

1 have the record reflect the Court's ruling.

2 MR. GOLDBERG: I am sorry, your Honor.

3 THE COURT: The motion is granted, and we will
4 disregard the comment of the witness.
5

6 Next question?

7 Q Will you give your opinion as to how it operates?

8 I will go back again: Do you have an opinion as
9 to how the 'game would be affected if the reserve clause
10 were modified?

11 A In my opinion it would have to be improved, sir.
12 I can't see how modifying the reserve clause in any way
13 could affect the game in a derogatory manner. I think it
14 would improve in terms of the players. I think it would
15 improve in terms of the relationship between owners and
16 players, and I think basically this is what we are after:
17 to have a better relationship between management and players,
18 if you are to have a great game.

19 MR. GOLDBERG: Thank you very much.

20 THE COURT: Before I forget, in striking the wit-
21 ness' answer as to big business, please understand that that
22 is the issue that I must resolve, predicated upon actual
23 evidence presented to me, and I am not foreclosing testimony
24 dealing with whether or not baseball is in effect the
25 equivalent of big business. It is just that it had to be

stricken. coming from you --

THE WITNESS: Yes, sir.

THE COURT: -- as your opinion, you understand.

Very well.

MR. GOLDBERG: Your Honor, I have one other question, if I may.

If I may also comment, we will be offering evidence on this subject.

THE COURT: Of course you will.

BY MR. GOLDBERG (Continuing):

Q I neglected to ask you, Mr. Robinson, that when Zimmer, Hoak and Miksis were sitting on the bench with Brooklyn, in your opinion, as team mates, as an expert in the game, did they have enough ability, from your personal observation, to play as regulars with another club?

A I would certainly say yes to that question, sir.

MR. GOLDBERG: Thank you very much.

THE COURT: Mr. Kramer, or whichever procedure you wish?

MR. KRAMER: Mr. Hughes first.

THE COURT: Very well. Mr. Hughes?

MR. HUGHES: Will you bear with me for a moment, your Honor?

THE COURT: Certainly. Take your time.