

JUN 30 2010

UNITED STATES DISTRICT COURT
of the
Eastern District of Arkansas
Jonesboro Division

JAMES W. McCORMACK, CLERK
By: *[Signature]* DEP CLERK

FRIENDS OF THE WEINER SCHOOL DISTRICT)
Plaintiff)
UNITED STATES DEPARTMENT OF AGRICULTURE,)
Involuntary/Third-Party Plaintiff)
WEINER SCHOOL DISTRICT)
Involuntary/Third-Party Plaintiff)
V.)
THE STATE OF ARKANSAS, GOVERNOR)
In his official capacity; ARKANSAS DEPARTMENT OF)
EMERGENCY MANAGEMENT, David Maxwell in his)
official capacity; ARKANSAS STATE BOARD OF)
EDUCATION, Dr. Naccaman Williams, Dr. Ben Mays,)
Sherry Burrow, Jim Cooper, Brenda Gullet,)
Samuel Ledbetter, Alice Williams Mahony, Toyce Newton,)
and Vickie Saviers, in their official capacities;)
ARKANSAS DEPARTMENT OF EDUCATION;)
HARRISBURG SCHOOL DISTRICT)
Defendants)

Civil Action No. 3-10-CV-0138 JMM

This case assigned to District Judge *Moody*
and to Magistrate Judge *Kearney*

COMPLAINT FOR DECLARATORY JUDGMENT

Parties

1. Plaintiff Friends of Weiner School District Plaintiff, Friends of Weiner School District, are citizens of various States who live in America and other countries; many of them are farmers, small business owners, grandparents, parents, and children who have graduated from, are attending, or will attend Weiner schools and depend upon farming for their livelihood.

2. Involuntary Plaintiff, Weiner School District, is a school district formed and operated under the laws of the State of Arkansas, located in Poinsett County, Arkansas.
3. Involuntary Plaintiff, the United States Department of Agriculture (USDA), is a department of the United States government that is charged with the duty of ensuring that Americans have a plentiful and safe food supply.
4. Defendants the State of Arkansas, Governor Mike Beebe in his official capacity, and the Arkansas Department of Emergency Management have the duty to ensure the safety, welfare, and peace of the people of Arkansas.
5. The Arkansas State Board of Education and the Arkansas Department of Education have the duty to ensure that the citizens of the State of Arkansas are educated according to Article 14 of the Arkansas Constitution.
6. Each of the defendants has a duty to perform these functions consistent with the Arkansas Constitution and the United States Constitution.
7. The Harrisburg School District is the receiving district in the pending annexation.

Jurisdiction

8. This is a claim for declaratory and injunctive relief arising under the Commerce Clause of the Constitution of the United States, Article I, § 8, cl. 3. all as more fully set forth below.
9. Furthermore, interpretation of the state laws is inextricably intertwined with federal policy and Presidential Directives regarding national security.
10. This court has jurisdiction by reason of 28 U.S.C.A. § 1331.

11. This is an action for declaratory judgment pursuant to 28 U.S.C.A. § 2201, for the purpose of determining a question of actual controversy between the parties as more fully appears in this complaint.
12. There is now existing between the parties to this action an actual, justiciable controversy in respect to which plaintiff is entitled to have a declaration of its rights and further relief, including a mandatory injunction, because of the facts, conditions, and circumstances hereinafter set out.
13. Venue is appropriate in the Jonesboro Division of the Eastern District pursuant to 28 U.S.C.A. §1391 because the farm land and farming-related community affected by these acts are located in Poinsett County.

Facts

14. The history of education in Arkansas reflects a brokenness that is not easily identified or remedied.
15. In attempts to remedy an unconstitutional funding system, the Arkansas State Legislature enacted Act 60 of 2003.
16. Act 60 contains a provision that requires the closing of schools with enrollment of less than 350 students.
17. This mandatory closure of districts based on the arbitrary number of 350 violates Article 14 of the Arkansas Constitution mandating free education to ensure equal opportunity for education in the State of Arkansas, and, when the school is in an agricultural district, also violates Article 10 of the Arkansas Constitution.
18. Furthermore, the strict adherence to a number for the closures of schools in agricultural areas negatively impacts the rural communities.

19. The negative impact on the rural communities in turn affects the agricultural industry of the state in violation of Article 10 of the Arkansas Constitution.
20. Article 10 requires the General Assembly to pass laws to “foster and aid” agricultural interests.
21. The negative impact on the agriculture and food production in the State of Arkansas has a significant impact on interstate commerce.
22. The negative impact on the agriculture and food production in the State of Arkansas also threatens our nation’s food supply.
23. The threat to our nation’s food supply threatens our nation’s security.
24. The closure of schools in rural communities is in direct contradiction to the five year strategic plan of the United States Department of Agriculture (USDA) to ensure the prosperity of rural communities.
25. The USDA’s plan identifies schools are critical community facilities in rural communities.
26. The Defendants’ closing of schools in agricultural areas contravenes federal policies to ensure a safe and abundant food supply for our country.
27. A safe and abundant food supply for our country is critical to our national security.
28. To reach its strategic goals of the next five years, the USDA specifically identified schools in rural communities as critical community facilities necessary, not only for the prosperity of rural America, but to ensure the adequacy of our food supply.
29. The USDA’s strategic plan includes the following goal statement: The common goal is to help create thriving rural communities where people want to live and raise families, and where the children have economic opportunities and a bright future. ...

USDA is working to enhance the livability of rural communities. The Department uses 21st century technology to rebuild the infrastructure, ensure that rural residents have decent housing and and...critical community facilities including ... schools... .
...The country's farmers help ensure that all of America and many other parts of the world have nutritious and safe food, adequate energy sources, and fiber products sufficient to meet the needs of our rapidly growing population.

30. The State of Arkansas has similarly recognized the loss of schools through consolidation as a threat to the rural communities. In Research Project No. 06- 137, entitled "Educating Rural Arkansas: Issues of Declining Enrollment, Isolated Schools, and High Poverty Districts," the Bureau of Legislative Research concluded that "[i]solated schools and strategies for meeting the needs of their students are being affected by the consolidation of schools with declining enrollment. Rules governing the closing of isolated schools in the state should be reevaluated."
31. The systematic closing of schools in agricultural districts, when that closing fails to promote and aid the agricultural industry, violates Article 10 of the Arkansas Constitution.
32. On April 21, 2010, in testimony to the U.S. House of Representatives, Committee on Homeland Security, The Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism presented testimony assessing the risk of WMD terrorism.
33. The statements included the unanimous conclusion that a biological weapon was the most likely WMD threat and was more likely than not to occur by 2013.
34. Agroterrorism is a subcategory of bioterrorism.

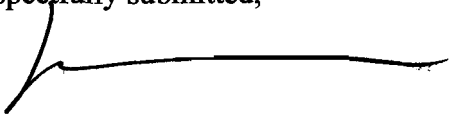
35. Agroterrorism is a threat to our national security.
36. The first line of defense against agroterrorism is the on-site managers and operators of our farms and ranches.
37. Rural communities are critical to that first line of defense and schools are a critical community facility in the rural communities.
38. On-site managers and operators need to be present in rural communities.
39. Family owned farms and families working farms are the most beneficial structure to ensure our country's heritage and safe and abundant food supply.
40. The State of Arkansas produces more rice than any other state in the country.
41. Poinsett County is consistently the top producer of rice in the state.
42. The State of Arkansas produces approximately one-half of the rice in the country.
43. Poinsett County is a conceivable target for agroterrorism.
44. The State Board of Education rejected an innovative plan to form a new school district called Arcadia by joining the Weiner School District with another isolated school district, Delight.
45. After rejection of the plan by the State Board of Education, the Delight School District chose another avenue for addressing its pending closure.
46. The Weiner School District, under duress, voted to annex with the Harrisburg School District.
47. On July 1, the Harrisburg School district will receive all of the assets of the Weiner School District, with only one year guarantee of an open campus.
48. All the decisions made by the Defendants to close the Weiner School District were made without consideration of Article 10 of the Arkansas Constitution.

49. The closure of the Weiner School District violates Articles 10 and 14 of the Arkansas Constitution.
50. The Weiner School District is successful financially and academically and is subject to the statutory requirement of closing because of falling below a statutory minimum of 350 attendance as required by Act 60 of 2003, and as amended.
51. The statutory scheme requiring governmental closure of schools in agricultural districts is unconstitutional as written and applied to the Weiner School District.
52. The State of Arkansas, and particularly the Arkansas Department of Emergency Management, works with the federal government to ensure the safety of this state and nation.
53. To support the mutual benefits and obligation regarding national security, in 2010, the State of Arkansas will receive almost \$27 million in funds through the Homeland Security Preparedness Grants.

THEREFORE, plaintiff demands that this court enter a declaratory judgment that the statutory requirement that school districts with an enrollment of less than 350 students be consolidated violates the Arkansas and United States Constitutions as written and applied to the Weiner School District, threatens the security of the nation's critical infrastructure and key resources, particularly as to the agriculture and food supply, and to permanently enjoin the Defendants from annexing, consolidating, or otherwise restructuring or closing the Weiner School District based upon an enrollment number, and that the court grant such other and federal relief as may be proper.

Dated: June 30, 2010

Respectfully submitted,



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