

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

LITTLE ROCK SCHOOL DISTRICT,
ET AL.

PLAINTIFFS

v. NO.4:82CVO866 DPM

PULASKI COUNTY SPECIAL SCHOOL DISTRICT,
NO. 1, ET AL.

DEFENDANTS

MRS. LORENE JOSHUA, ET AL.

INTERVENORS

KATHERINE W. KNIGHT, ET AL.

INTERVENORS

Joshua Intervenors Motion Pursuant to Rule 62.1
Concerning the Motions Regarding the NLRSD and the PCSSD

The Joshua Intervenors have filed motions, pursuant to Rules 52(b) and 59(e), Fed.R.Civ.Pro., for amended and additional findings of fact and conclusions of law, as well as additional orders. The motions pertain to the court's (Brian Miller, J.) "Findings of Fact and Conclusions of Law" [5-19-11], resolving the NLRSD's and the PCSSD's motions for unitary status. [Docs. 4141 and 4159. 4159].

Joshua Intervenors now move to invoke the procedures set forth in Rule 62.1, Fed.R.Civ.Pro.

Joshua Intervenors make the following additional allegations in support of this motion. Intervenors also rely on their accompanying brief concerning this motion and their briefs filed in support of the Rule 52-59 motions.

[1.] On May 19, 2011, this court (B. Miller, J.) signed and

the Clerk's office described on the civil docket "Findings of Fact and Conclusions of Law," which, resolved the NLRSD's and the PCSSD's motions for unitary status. The court's rulings amended earlier judgments regarding the NLRSD's and the PCSSD's desegregation plans, by releasing each district from supervision in certain areas, by identifying further relief in one area in each system, and by subjecting each district to a "show cause" requirement regarding "funding for M-to-M transfers." [5-19-11 at 1-2, 19-20, 49, 108, 109-10]

[2.] To date, no "separate document" setting forth the court's amended judgments regarding the NLRSD and the PCSSD has been prepared, approved by the court, and entered by the clerk on the civil docket. Therefore, judgment has yet to be entered on the rulings made by the court concerning the motions of the NLRSD and the PCSSD for unitary status. See Rules 52(a), 58(a)-(c), Fed.R.Civ.Pro.

[3.] The foregoing allegations show that the two Rule 52-59 motions were timely filed. See Rule 52(b) and 59(e).

[4.] The NLRSD and the PCSSD have each appealed to the Court of Appeals for the Eighth Circuit from the court's amended judgments set forth in the Findings of Fact and Conclusions of Law of May 19, 2011. The districts challenge the rulings of non-compliance with their respective desegregation plans (NLRSD one area and PCSSD multiple areas).

[5.] In brief, the districts challenge findings and conclusions of non-compliance, on appeal, and the Joshua

Intervenors challenge findings and conclusions of compliance, in this court.

[6.] Rule 62.1 provides a mechanism for use should this court decide that it lacks authority to grant relief requested by Joshua Intervenors in this court due to the appeals described in paragraph [4.] above.

[7.] Joshua Intervenors memoranda show, at a minimum, that each of their Rule 52-Rule 59 motions "raises . . . substantial issue[s]."

WHEREFORE Joshua Intervenors respectfully pray that this court:

a. after responses by the school districts, grant Joshua Intervenors' two Rule 52-59 motion;

b. alternatively, if the court decides that it lacks authority to grant the motions due to the appeals, act in accordance with Rule 62.1(3); and

c. grant such other and further relief as the needs of justice may require.

Respectfully submitted,

/s/ John W. Walker
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CERTIFICATE OF SERVICE

I do hereby state that a copy of the foregoing pleading has been served on all counsel of record upon filing by utilizing the CM/ECF system on this 22nd day of July, 2011.

/s/ John W. Walker