

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**LITTLE ROCK SCHOOL DISTRICT,
*et al.***

PLAINTIFFS

v.

No. 4:82-cv-866-DPM

**NORTH LITTLE ROCK SCHOOL
DISTRICT, *et al.***

DEFENDANTS

LORENE JOSHUA, *et al.*

INTERVENORS

ORDER

The Pulaski County Special School District asks the Court for a declaratory judgment. The District, which has been under State control for about a year, is wrestling with its fiscal problems. Moving at the direction of the State's Commissioner of Education, the District's acting superintendent recently took several steps: He terminated the contracts with the Pulaski Association of Classroom Teachers and the Pulaski Association of Support Staff; he withdrew recognition of the Unions as the employees' collective bargaining units; and he implemented District personnel policies, which

replace the contracts with the Unions as the architecture for District-employee relations. ARK. CODE ANN. §§ 6-17-201 & 6-17-202. The District seeks a judgment declaring all these steps valid and enforceable under state law.

The Unions want to resolve this dispute in the Circuit Court of Pulaski County, Arkansas. They sued there a couple of months ago, challenging the development of the personnel policies. And the Unions recently amended their lawsuits to cover the District's termination of their contracts and withdrawal of recognition. The Unions adopt the Department of Education's argument against the District's motion for declaratory judgment: this Court, they say, lacks subject matter jurisdiction to resolve the District/Department/Unions dispute, which turns on Arkansas law. "The Declaratory Judgment Act is procedural; it does not expand federal court jurisdiction." *Bacon v. Neer*, 631 F.3d 875, 880 (8th Cir. 2011). So the District must demonstrate this Court's jurisdiction in the circumstances.

This dispute belongs in State Court. The Eleventh Amendment issue pressed by the Department and the Unions mostly drops out, *United States v. Thomas*, 20 F.3d 817, 820 (8th Cir. 1994), because precedent arising from this very lawsuit answers the jurisdictional question. Fifteen years ago, a dispute

between the District and its teachers resulted in a strike. This Court, on the District's motion, ordered the teachers back to work. The Court of Appeals reversed. *Knight v. Pulaski County Special School District*, 112 F.3d 953 (8th Cir. 1997). As it was in 1997, this Court's main job is to enforce the settlement agreement. 112 F.3d at 954. This Court's jurisdiction in this case "does not include the authority to resolve other disputes among the parties or to adjust their legal rights and responsibilities arising from other sources." 112 F.3d at 955. The current conflict among the District, the Department, and the Unions involves these parties' rights and responsibilities arising from Arkansas law: the Commissioner's authority in managing a fiscally distressed school district; how he has exercised that authority here; the District's actions in developing and implementing personnel policies; and the District's and the Unions' rights and duties in their contractual relationships. These are all Arkansas-law questions. They are best answered by the Pulaski County Circuit Court in the pending State cases.

The District presses that this Court has jurisdiction because it must resolve the uncertainty about continued desegregation funding by deciding the State's motion to terminate its obligations. *Document No. 4754*. That

uncertainty, the argument continues, clouds both the District's fiscal situation and the District-Unions dispute. The premises are correct, but the conclusion doesn't follow. The Pulaski County Circuit Court certainly cannot decide the State's motion. All concerned parties are aiming at the same target: unitary status for the PCSSD. The Commissioner, the District, and the Unions are making decisions and negotiating based on their best judgment about the future of State funding. Uncertainty there will be until this Court handles the State's motion to stop paying. But uncertainty about an important slice of the District's budget does not create federal jurisdiction. Put another way, none of the contending parties have done anything in this budgetary and labor dispute to impede or imperil Plan 2000 or the Settlement Agreement. Those circumstances make a legal difference on the jurisdictional question. *Knight*, 112 F.3d at 955.

The Court is not persuaded by the District's passing arguments that lurking federal questions create jurisdiction to adjudicate the whole District-Unions controversy. The District-Unions contracts do incorporate unspecified "court orders," presumably referring to orders in this case (such as the ones adopting Plan 2000 and the 1989 Settlement Agreement) and other

orders in other cases involving the District and its employees. The District's reading of this term, however, proves too much. Not every dispute involving the District and its teachers and staff is part of this federal case. Again, no one argues that any recent actions were designed to interfere with the District's desegregation efforts or have interfered with those efforts. *Knight*, 112 F.3d at 955.

The Unions' invocation of the U.S. Constitution's Contract Clause in their complaints does not bring the whole case here either. The Unions make their impairment claim first under the Arkansas Constitution. *Document Nos. 4752-1, at 11-12 & 4752-2, at 10-11*. Their fallback reliance on federal law looks like cautious double pleading, nothing more.

Here the jurisdictional problem for the District has two layers. First, the impairment claim belongs to the Unions; it is not raised by the District's motion (really, a complaint) seeking declaratory relief; and thus the well-pleaded complaint rule means that no jurisdiction exists. *State of Missouri ex rel. Missouri Highway and Transportation Commission v. Cuffley*, 112 F.3d 1332, 1334-35 (8th Cir. 1997). Second, because the District seeks a declaratory judgment, the Court must also consider the case as if the Unions had filed

their complaints seeking declaratory and injunctive relief in this Court. 112 F.3d at 1334–37. To the extent the federal impairment claim would require the Court to measure the Commissioner’s actions under Arkansas law, an Eleventh Amendment bar would arise. *Pennhurst State School and Hospital v. Halderman*, 465 U.S. 89, 106 (1984). To the extent that bar could be avoided, novel Arkansas law issues would still substantially predominate, strongly counseling this Court against exercising supplemental jurisdiction over those issues. 28 U.S.C. § 1367(c)(1) & (2). And the Court would abstain on the federal impairment claim so the State court could resolve the whole case. *Moore v. Sims*, 442 U.S. 415 (1979).

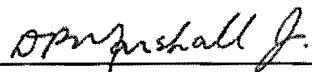
There is one loose end. As the Department of Education notes, the Unions and some of their members are Intervenors in this case based on the now-terminated contracts.* *Little Rock School District v. Pulaski County Special School District No. 1*, 738 F.2d 82 (8th Cir. 1984). The District having terminated the contracts, should the Knight Intervenors remain parties? Yes.

*The Pulaski Association of Classroom Teachers and various individuals intervened in 1989 to represent both certified and non-certified staff employees of the District. *Document No. 1179*. At least since 2001, the Pulaski Association of Support Staff has been participating in this case as part of the Knight Intervenors.

Until the State court adjudicates the District-Unions contract dispute, these long-standing parties should continue to be heard here.

The Pulaski County Special School District's motion for declaratory judgment, *Document No. 4732*, is denied for want of subject matter jurisdiction.

So Ordered.



D.P. Marshall Jr.
United States District Judge

5 June 2012