

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

PARENT PLAINTIFF LAKESHA DOE,
et. al.

PLAINTIFFS

v.

CASE NO. 4:15-cv000623 DPM

MICHAEL POORE, in his official capacity as
Superintendent of the Little Rock School District,
in his Official Capacity

DEFENDANT

Plaintiffs' Motion In Support of Reconsideration and Other Relief

Plaintiffs respectfully move for entry of an Order providing for reconsideration of the dismissal of their racial discrimination and freedom of expression claims and related relief. This motion is based upon the following allegations and Plaintiffs' accompanying memorandum.

[1.] The Court's Order does not address "all the facts" [Order at 3], or "the full weight of the facts." [Order at 30] Error is due, in part, to the failure to apply governing precedent, the failure to confront reasonable legal arguments, and reliance on distinguishable precedent. The Order [at 28-30] introduces multiple matters arising after the filing of the motion to dismiss and supporting brief, as well as Plaintiffs' response to the motion and brief; chooses the detail in which to present those matters; and then [a] applies the plausibility standard to those matters, ruling against Plaintiffs, and [b] denies Plaintiffs the opportunity to file amendments on these matters, all without the opportunity for Plaintiffs' involvement. The decision cited by the Court does not support or justify this "process."

[2.] On March 31, 2016, the State Board approved the addition of more than 3,000

charter school seats in the LRSD [at Lisa Academy and E-STEM. The Court's Order [at 29] alludes to this action without citing the number of seats. This circumstance adds to the strength of plaintiffs' charter school argument, as explained in the accompanying memorandum. On October 13, 2016, the LRSD defendants filed a status report prepared by Superintendent Michael Poore [# 77]. The Superintendent reports that the District's ability to fund the Southwest High School project is no longer clear. He does not even mention the Cloverdale follow-up. It is apparent from the text of the report that these funding problems exist without reference to the LRSD's loss of huge sums of money, if the 3,000 new charter seats come to exist. Plaintiffs' request for reconsideration of the charter school issue encompasses these facts, as explained in the memorandum.

[3.] The memorandum explains why it is proper for the Trial Schedule to be modified to allow Plaintiffs to file an amendment addressing the new charter school seats.

[3.] The reconsideration of these claims regarding control of policy-making in the LRSD and freedom of expression is in the interests of justice. The action of the State Board set aside the will of the voters by a one vote margin. The LRSD now faces sensitive issues such as cutting the budget, possible school closings, and funding facilities work. The voters chosen representatives should be part of this work. The special role of the freedom of speech in this nation has long been recognized. These are claims on which it is imperative to "travel the last mile."

WHEREFORE Plaintiffs pray that the Court, after reconsideration : [a] deny the dismissal of their racial discrimination claims based upon the takeover of the LRSD and the removal of the LRSD School Board; [b] deny the dismissal of the freedom of

expression claims of Mrs. Joy Springer and Dr. Jim Ross; [c] revise the Final Scheduling Order by providing a deadline for Plaintiffs' filing of a further amendment addressing the addition of charter school seats raised by the Court [see Rule 16(b)(1), (b)(4), Fed.R.Civ.Pro.]; [d] allow Plaintiffs to file only the text of the amendment, as authorized in Local Rule 5.5(e), based upon the length of the Amended Complaint and the many attachments; and [e] after filing of the amendment, and any appropriate submissions by the State Defendants and the Plaintiffs, deny dismissal of the charter school racial discrimination claim.

Plaintiffs emphasize that they do not waive their right to appeal the dismissal of their Thirteenth Amendment claim.

Respectfully submitted,

/s/ John W. Walker
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CERTIFICATE OF SERVICE

I do hereby state that a copy of the foregoing has been served on all counsel of record wherein a copy was sent by utilizing the CM/ECF system on this 17th day of October, 2016.

/s/ John W. Walker