

IN THE SUPREME COURT OF THE STATE OF KANSAS

No. 113,267

LUKE GANNON, *ET AL*,
Appellee,

v.

STATE OF KANSAS,
Appellant.

ORDER

On December 30, 2014, the 3-judge panel appointed under K.S.A. 2014 Supp. 72-64b03 issued in the district court a memorandum opinion and order on remand. Despite post-trial motions pending in the district court, on January 28 the State filed there a notice of appeal to the Kansas Supreme Court. On February 18, it then filed a docketing statement in this court.

On March 5, we remanded the appeal to the panel "for resolution of all pending post-trial motions, including the State's January 23 motion to alter and amend the December 30 order regarding adequacy and the Plaintiffs' January 27 motion to alter the December 30 order regarding equity." We also stayed the briefing schedule in this court.

On March 11, the panel issued another memorandum opinion and order, granting in part the State's January 23 motion to alter and amend the December 30 order regarding adequacy. As of the date of this order, the panel has not ruled on the Plaintiffs' January 27 motion to alter the December 30 order regarding equity. But it has set a hearing on that motion for May 7.

On March 16, the State filed in the district court a second notice of appeal to the Kansas Supreme Court. On March 18, it filed a supplemental docketing statement in this court. On March 19, the Plaintiffs filed a motion to strike the State's supplemental docketing statement, arguing that, "[b]ecause all pending post-trial motions have not been resolved, this matter should remain before the Panel for resolution, as set forth in the Kansas Supreme Court's March 5, 2015, Order."

On March 30, the State filed a response to the motion. It argued that the filing of the supplemental docketing statement did not strip the panel of jurisdiction to consider the Plaintiffs' January 27 motion to alter the December 30 order regarding equity. It also argued the Plaintiffs had failed to show grounds for remanding the adequacy issue to the panel. The State further pointed out that this court could maintain the current stay of the briefing schedule so that the State's appeal of the adequacy issue could be addressed at the same time as any future appeal on the equity issue.

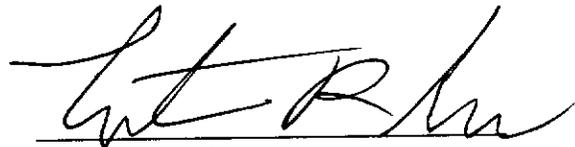
On April 2, the Plaintiffs filed a reply, advising they had filed a motion for declaratory judgment and injunctive relief in the district court on March 26. That motion asks the panel to hold unconstitutional House Substitute for Senate Bill 7, which appropriates funds for K-12 education for fiscal years 2015, 2016, and 2017 and was signed into law by the governor on March 26. In the Plaintiffs' reply, they again asked this court to remand the State's appeal on the issue of adequacy for the panel's resolution of the entire case.

After careful consideration of the Plaintiffs' motion to strike, the State's response, and the Plaintiffs' reply, we order the following:

1. The Plaintiffs' motion to strike the State's supplemental docketing statement is denied.

2. The State's response to the Plaintiffs' motion to strike the State's supplemental docketing statement is noted.
3. The Plaintiffs' reply in support of its motion to strike the State's supplemental docketing statement is noted.
4. The district court has jurisdiction to resolve all pending post-trial matters, including the Plaintiffs' January 27 motion to alter the December 30 order on the issue of equity and their March 26 motion for declaratory judgment and injunctive relief, and any additional motions filed after the date of this order.
5. The briefing schedule in the State's appeal remains stayed pending further order of this court.

IT IS SO ORDERED this 30th day of April 2015.

A handwritten signature in black ink, appearing to read 'Lawton R. Nuss', written over a horizontal line.

Lawton R. Nuss,
Chief Justice