

1989 WL 197569
United States District Court, N.D. Illinois, Western
Division.

PEOPLE WHO CARE, et al., Plaintiffs,

v.

ROCKFORD BOARD OF EDUCATION SCHOOL
DISTRICT # 205, et al., Defendants.

No. 89 C 20168. | Dec. 15, 1989.

Attorneys and Law Firms

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defendants.

Opinion

MEMORANDUM OPINION AND ORDER

ROSZKOWSKI, District Judge.

*1 This action comes before the Court on motion of the Rockford Education Association to intervene in this lawsuit as a non-aligned party. For the reasons set forth in the Memorandum Opinion below, this Court denies the Rockford Education Association's motion to intervene in this lawsuit as a non-aligned party.

BACKGROUND

This action was initiated by People Who Care, a not-for-profit group, on May 11, 1989 challenging certain alleged discriminatory practices within the Rockford School District # 205. The parties to the litigation arrived at an Interim Agreed Order which was signed by this Court on July 7, 1989. In that Interim Agreed Order, a section was included relating to the collective bargaining agreement with the Rockford Education Association which stated as follows:

Defendants ... shall be liable for the assignment of professional staff (and other staff to support the functions

of such education) as may be required to render functional all schools in the Rockford Public School system, for a timely and orderly commencement of the 1989-1990 school year, consistent with the calendar of school attendance previously adopted by the Defendant Board of Education.

The Court finds that in so doing, the Defendant Board of Education may be required to take steps in the re-assignment of professional staff which may necessitate the temporary suspension of Article XII of the Agreement between the Board of Education and the Rockford Education Association, IEA-NEA. Nothing, however, in this Order shall be deemed to abrogate the legal responsibility of the Board of Education to bargain with the Rockford Education Association over either impact of such assignments and the impact of implementation of this Order or the terms and conditions of a new labor agreement for the 1989-90 school year and years thereafter. However, nothing expressed herein shall be deemed to relieve the Board of Education from its required duty as expressed herein to implement this Order while it engages in such bargaining as may be required by law or by the terms of any contractual responsibility of the Board of Education. However, any remedies of the Rockford Board of Education and for its employees and the Rockford Education Association shall be subject to enforcement only by this Court, consistent with this Order.

Interim Agreed Order, Section III(D) (emphasis added).

Pursuant to this Interim Agreed Order, the Rockford Board of Education and the Rockford Education Association negotiated the terms and conditions of the assignments and/or re-assignments of teachers and professional staff for the 1989-90 school year. This Court was not involved in that process nor was this Court called upon to make any rulings with respect to those assignments and/or re-assignments.

On September 28, 1989, the Rockford Education Association moved this Court to intervene as a non-aligned party to the underlying lawsuit.

DISCUSSION

Rule 24 of the Federal Rules of Civil Procedure governs intervention in the district courts. Rule 24 allows for intervention as of right and permissive intervention. The Rockford Education Association has not suggested that they qualify under Rule 24 for intervention as of right. Therefore, this Court treats the R.E.A. motion for intervention as a motion for permissive intervention.

*2 Rule 24 states as follows:

(b) Permissive Intervention. Upon timely application anyone may be permitted to intervene in an action: (1) when a statute of the United States confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common.... In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

Fed.R.Civ.P. 24(b).

Based on the plain language of the Rule, the intervenor must show, at a minimum, that the applicant's claim or defense and the main action have a common question of law or fact. In this case, the R.E.A. has utterly failed to show that there is even some legitimate claim or defense which exists at all. The only thing this Court has been able to ascertain regarding some claim or defense by the R.E.A. is the possibility that at some future time the rights of the R.E.A. may be implicated by the adjudication of the underlying claim.

The R.E.A. points to the fact that the portion of the Interim Agreed Order quoted above provides for the possibility of abrogation of certain portions of the collective bargaining agreement between the Rockford School Board and the Rockford Education Association. However, in fact, there was no abrogation of any sections of the collective bargaining agreement and the parties to that collective bargaining agreement negotiated all the terms of the assignments which resulted from the Interim Agreed Order. Since that time, no events have occurred which this Court is aware of which impact in any way on the Rockford Education Association, its members or the terms of the collective bargaining agreement. The R.E.A. motion to intervene appears to be based solely on a fear or caution regarding events which may occur in the future.

Unfortunately for the R.E.A., however, that is insufficient to intervene under Rule 24(b)(2). Therefore, the motion by the Rockford Education Association to intervene as a non-aligned party must be denied.

While this Court denies the motion of the Rockford Education Association to intervene, the Court is certainly cognizant of the concern which the R.E.A. has regarding the potential impact rulings in the underlying action may have on its membership. Therefore, in order to keep the R.E.A. and its membership fully apprised of the proceedings before this Court relating to the underlying action, this Court will order that some designate of the R.E.A. be placed on the service list and receive copies of all pleadings and other matters before this Court relating to the underlying action. In addition, this Court orders the Clerk of the District Court to send to the designate of the R.E.A. any and all notices which are sent to the parties to the underlying action.

CONCLUSION

For the reasons set forth in the foregoing opinion, this Court denies the motion of the Rockford Education Association for permissive intervention pursuant to Rule 24(b)(2). Further, this Court orders the Rockford Education Association to be added to the service list for the underlying action and to be provided with notices relating to all phases of the underlying action by the Clerk of the District Court.

Parallel Citations

133 L.R.R.M. (BNA) 2976