

NINETEENTH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

DIVISION I, SECTION 24

.....

LA TEACHERS FEDERATION, ET AL .

V. .

SUIT NO. 612,732

STATE OF LOUISIANA .

.....

MONDAY, MARCH 4, 2013

ORAL REASONS ON MOTIONS FOR NEW TRIAL

THE HONORABLE R. MICHAEL CALDWELL, JUDGE PRESIDING

APPEARANCES:

LARRY SAMUEL FOR PLAINTIFFS

JIMMY FAIRCLOTH AND JOHN HUNT FOR DEFENDANT

REPORTED BY: PAMELA KATE VOLENTINE, CCR #26011

MARCH 4, 2013

THE COURT: ALL RIGHT. THIS IS SUIT NUMBER 612,732, THE LOUISIANA FEDERATION OF TEACHERS OR LOUISIANA TEACHERS FEDERATION VERSUS STATE OF LOUISIANA BEFORE THE COURT ON CROSS-MOTIONS FOR NEW TRIAL ON THE COURT'S DECISION ON EARLIER CROSS-MOTIONS FOR SUMMARY JUDGMENT CONCERNING THE CONSTITUTIONALITY OF WHAT STARTED OUT AS HOUSE BILL 974 AND BECAME ACT 1 OF THE 2012 REGULAR LEGISLATIVE SESSION DEALING ROUGHLY WITH EDUCATION ISSUES. AS I SAID, THIS ORIGINALLY CAME UP ON MOTIONS FOR SUMMARY JUDGMENT. THERE IS NO ARGUMENT HERE TODAY THAT THERE IS ANY NEW EVIDENCE TO PRESENT IF THIS WAS TO BE RETRIED. THIS IS A QUESTION OF LAW. I THINK I CAN DECIDE THIS NOW BASED UPON THAT FACT. I, IN MY DECISION, TALKED ABOUT THE TITLE OF THE ACT. IT IS NOW POINTED OUT TO ME BY THE PLAINTIFFS, THE FEDERATION OF TEACHERS AND THEIR RELATED PLAINTIFFS THAT WHAT I TOOK TO BE THE TITLE MAY, IN FACT, HAVE BEEN A SUMMARY OR ONE-LINER, AS IT IS DESCRIBED IN THE GLOSSARY OF THE LOUISIANA LEGISLATURE. I READILY ADMIT AND SOMEWHAT PROUDLY SAY THAT I AM NOT FAMILIAR WITH ALL THE WORKINGS OF THE LEGISLATURE. I ADHERE TO BISMARCK'S WARNING CONCERNING LAWS AND SAUSAGES, AND SINCE I LIKE BOTH, I DON'T WANT TO GO SEE THEM MADE. MR. FAIRCLOTH ARGUES THAT THIS IS A VERY IMPORTANT PIECE OF LEGISLATION. I DON'T THINK ANYBODY DISAGREES WITH THAT. HE TALKS ABOUT THE DETAILS OF THE MEANS TO ACHIEVE AN END OR WHAT THIS BILL IS ABOUT, AND, OF COURSE, THE PLAINTIFFS DISAGREE ABOUT THAT, AND I WILL GIVE MY OPINION ON

THAT LATER. HE TALKS ABOUT A NEW LEGISLATIVE PRACTICE OF DRAFTING LEGISLATION THAT HAS EVOLVED. WELL, THAT HAS EVOLVED ONLY IN THE LEGISLATURE. THEY HAVEN'T CHANGED THE CONSTITUTION. THEY APPARENTLY HAVEN'T CHANGED THEIR GLOSSARY OF TERMS. IF THEY WANT TO CHANGE THEIR OWN RULES INTERNALLY, THAT'S UP TO THEM, BUT THEY HAVEN'T CHANGED THE CONSTITUTION, AND THIS COURT IS STILL BOUND BY THE CONSTITUTION. AND IN MY EARLIER DECISION, I WAS VERY COGNIZANT OF THE LINE OF JURISPRUDENCE THAT SAYS STATUTES ARE PRESUMED TO BE CONSTITUTIONAL AND IT IS THE COURT'S DUTY TO UPHOLD THE CONSTITUTIONALITY WHENEVER IT IS REASONABLE TO DO SO. NOW, IF WHAT I TOOK TO BE THE TITLE, WHICH IS NOW POINTED OUT TO ME WAS SOLELY THE ONE-LINER, THEN I THINK IT WAS REASONABLE TO UPHOLD PARTS OF THE STATUTE THAT WERE ADDRESSED IN THAT ONE-LINER. BUT IF, AS THE PLAINTIFFS ASSERT AND THE DEFENDANTS HAVE NOT REBUTTED, THE ONE-LINER IS NOT THE TITLE, BUT THE TITLE IS AS IT APPEARS ON THE FINAL ACT, THEN THE SECOND SENTENCE, WHICH IS BASICALLY A SAVING PROVISION IN MY EARLIER OPINION OF ARTICLE 3, SECTION 15(A) OF THE CONSTITUTION, AND THE DECISION THAT I CITED IN **ORLEANS PARISH SCHOOL BOARD VERSUS CITY OF NEW ORLEANS** WOULD NOT APPLY. RATHER, I DID MAKE THE JOURNEY THAT I TALKED ABOUT, THE LONG AND CONVOLUTED JOURNEY TRYING TO SEE IF ALL OF THE PARTS OF THIS ACT HAD ONE OBJECT, TO SEE IF ALL OF THE PARTS OF THIS ACT OR THE TITLE STATED THAT ONE OBJECT. THAT WAS NOT MY CONCLUSION, AND THAT WAS THE BASIS FOR MY DECISION

INITIALLY WAS THAT THE TITLE AND THE ACT DO
CONTAIN MULTIPLE OBJECTS. I DIDN'T SAY THE TITLE
THEN, BUT OBVIOUSLY I WAS MISTAKEN AS TO WHAT THE
TITLE WAS. BUT THE TITLE AND THE ACT DO, IN MY
OPINION, CONTAIN MULTIPLE OBJECTS IN VIOLATION OF
ARTICLE 3, SECTION 15(A), AND THEREFORE, THE
ENTIRE ACT IS UNCONSTITUTIONAL, AND I SO RULE
TODAY, SINCE THERE IS NO NEED ON THESE MOTIONS FOR
NEW TRIAL FOR ANY ADDITIONAL EVIDENCE OR HEARING
AND IT HAS ALL BEEN BRIEFED INITIALLY ON MOTIONS
FOR SUMMARY JUDGMENT AND HERE IN CONNECTION WITH
THE MOTIONS FOR NEW TRIAL. SO IT IS MY FINDING
THAT ACT 1 OF THE 2012 REGULAR LEGISLATIVE
SESSION, WHICH BEGAN AS HOUSE BILL 974, IS
UNCONSTITUTIONAL IN ITS ENTIRETY. SO MR. SAMUEL,
IF YOU'LL PREPARE A JUDGMENT TO THAT EFFECT,
PLEASE, SEND A COPY TO MR. FAIRCLOTH PURSUANT TO
RULE 9.5 AND HAVE THE ORIGINAL FILED AND SENT TO
MY OFFICE.

END OF TRANSCRIPT

C E R T I F I C A T E

I, PAMELA KATE VOLENTINE, CERTIFIED COURT REPORTER IN AND FOR THE STATE OF LOUISIANA AND EMPLOYED AS OFFICIAL COURT REPORTER BY THE 19TH JUDICIAL DISTRICT COURT, DO HEREBY CERTIFY THAT THIS PROCEEDING WAS REPORTED BY ME IN THE STENOTYPE METHOD, THAT THIS TRANSCRIPT WAS PREPARED BY ME AND IS A TRUE AND CORRECT TRANSCRIPT TO THE BEST OF MY ABILITY AND UNDERSTANDING, THAT THE TRANSCRIPT HAS BEEN PREPARED IN COMPLIANCE WITH TRANSCRIPT FORMAT GUIDELINES REQUIRED BY STATUTE OR BY RULES OF THE BOARD OR BY THE SUPREME COURT OF LOUISIANA, AND THAT I AM NOT RELATED TO COUNSEL OR TO THE PARTIES HEREIN, NOR AM I OTHERWISE INTERESTED IN THE OUTCOME OF THIS MATTER.

WITNESS MY HAND THIS 8TH DAY OF MARCH, 2013.



Pamela Kate Volentine

PAMELA KATE VOLENTINE, CCR

OFFICIAL COURT REPORTER

19TH JUDICIAL DISTRICT COURT

CCR #26011