SUPREME COURT OF ARKANSAS

No. 06-1284

HELENA-WEST HELENA SCHOOL DISTRICT #2 OF PHILLIPS COUNTY, ARKANSAS; RUDOLPH HOWARD, INTERIM SUPERINTENDENT IN HIS PERSONAL AND HIS OFFICIAL CAPACITY; AND LISA BAKER IN HER INDIVIDUAL AND OFFICIAL CAPACITY AS PRINCIPAL OF THE WEST SIDE ELEMENTARY SCHOOL OF THE HELENA-WEST HELENA SCHOOL DISTRICT, PETITIONER, VS. THE CIRCUIT COURT OF PHILLIPS COUNTY, ARKANSAS, RESPONDENT,	**Opinion Delivered** 3-15-07 PETITION FOR WRIT OF *CERTIORARI* OR PROHIBITION PETITION FOR REHEARING GRANTED. PETITION FOR WRIT OF *CERTIORARI* GRANTED. SUPPLEMENTAL OPINION ON GRANT OF REHEARING.

ROBERT L. BROWN, Associate Justice

The petition for rehearing is granted, and the petition for writ of *certiorari* is granted.

Petitioners Helena-West Helena School District, Rudolph Howard as interim superintendent, and Lisa Baker as principal of West Side Elementary School (collectively referred to as the "School District"), petition for a writ of *certiorari* or prohibition in response to the circuit court's order granting the request of Jimmy Brown, Jr. and Coretta Brown (the "Browns") for a temporary restraining order ("TRO"). The School District

argues that the circuit court had no subject-matter jurisdiction to hear the Browns' claims because the expulsion order was not final and because the Browns failed to exhaust their administrative remedies.

On October 24, 2006, the Browns filed a complaint as parents and next of kin of their children, Y.B. and J.B., who were students at West Side Elementary School in West Helena in October of 2006. Y.B. was in the sixth grade and J.B. was in the fourth grade. The complaint described an altercation between Y.B. and J.B. and the principal of the school, Lisa Baker. The Browns alleged in their complaint that when Lisa Baker's son, Mack Baker, called J.B. a "nigger," Principal Baker intervened to uphold the conduct of her son and that she physically attacked J.B.. The Browns declared that Principal Baker verbally and physically attacked J.B.. They concede, however, that J.B. struck Principal Baker. According to the complaint, Y.B. came to the assistance of her younger brother and requested that she be allowed to call her parents. That request was denied by Principal Baker, they alleged. The Browns also alleged that Principal Baker placed Y.B. and J.B. outdoors without any protection and had them arrested. According to the Browns, Principal Baker's actions were due to racism and bias. The Browns based their legal theories on the case of *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31, 91 S.W.3d 472 (2002), and on violation of the Arkansas Civil Rights Act.

Principal Baker wrote a summary of the incident leading to the school's expulsion of J.B. and Y.B. on October 19, 2006. She states the incident occurred on October 19, 2006.[1] She wrote in her summary that at around 7:20 a.m., she asked J.B. and Y.B. not to stand in the front lobby of the school, but that they could go to breakfast or to the computer lab or they could sit in the hall. They replied that they were waiting on someone, to which she responded, "[y]ou must go on, we don't wait on anyone." She wrote that both students headed toward the cafeteria, where they both encountered problems. Principal Baker had them to come to the office. She noted that they came back in the hall toward the office and turned around yelling profanities. At that time, J.B. went out the back door of the sixth grade hall, and Y.B. decided to go to the office. Y.B. told Principal Baker, "you better beat me then, because if Brittany is there I'm going to get her." When they got to the office Principal Baker asked Mrs. Hunt to get the tape recorder off her desk. Y.B. told Principal Baker that she was going to break the recorder. At about that time, J.B. arrived in the office and yelled, screamed, and cursed at Principal Baker.

Principal Baker noted that everything then moved to the foyer outside the office. She wrote that Mr. Means arrived and that Ms. Fears and Mrs. Thrower were trying to get other children out of this area.[2] Principal Baker said that J.B. attacked the visitor sign-in sheet, and

---

[1]In their complaint, the Browns assert that these events occurred on October 18, 2006.

[2]While it is unclear from the partial record in this case what positions Mrs. Hunt, Mr. Means, Ms. Fears, and Mrs. Thrower hold, it seems apparent that all of these people are employees of the School District.

Y.B. was trying to take the tape recorder out of her hand. Principal Baker wrote that she told Y.B. she was not going to take it out of her hand, when Y.B. put her hand on her nose (open palm to her nose). At this time, J.B. slapped the left side of Principal Baker's face, and Mr. Means tried to grab him. Principal Baker told Mr. Means to let J.B. go, and J.B. yelled and cursed all the way down the sixth grade hall and kicked the panic bar to get the door open. She added that Y.B. followed J.B. out the door.

Also on October 19, 2006, Principal Baker sent two notices of recommended expulsion from West Side Elementary School to J.B. and Y.B.'s father. In the notice regarding J.B., Principal Baker charged him with defiance of authority, abusive language, and staff assault. In the notice regarding Y.B., she charged her with defiance of authority and abusive language toward a school employee. Principal Baker recommended that both students be expelled for one year. The notices also informed the parents that the students would have a right to a hearing to be scheduled by the school superintendent and School Board.

On October 20, 2006, Rudolph Howard, the school Superintendent, wrote letters to J.B. and Y.B.'s mother regarding each of her children. Superintendent Howard informed Coretta Brown that the school was recommending that her children be expelled for one year and that due-process hearings were scheduled for each of her children and her before the

School Board on October 24, 2006 at 9:00 a.m.[3] He also noted in both letters that he called her on October 20, 2006, at 11:40 a.m., to confirm the appointment and that she hung up the telephone on him the first time and rudely told him to "talk to my lawyer." He added that when he called back a second time, since he did not know who her lawyer was, she hung up on him again. Superintendent Howard's letters further informed Mrs. Brown that her children would have an opportunity to tell their side of the story and present witnesses at the hearing. His letters noted that at the end of the hearings, the School District would state its final position on whether it wished to modify the school's recommendation or continue its quest for expulsion of each of her children. According to the Superintendent's letters, if the School District decided to pursue expulsion further, the Browns could appeal to him as Superintendent.

Rather than participating in the due-process hearing on October 24, 2006, the Browns filed their complaint in circuit court on that date, as described above. On October 26, 2006, the Browns moved for a TRO to stop the expulsion of the Brown children on the basis that the School District was violating their right to attend public school in accordance with Article Fourteen of the Arkansas Constitution. The Browns alleged that the expulsion was harsh, unreasonable, and not rationally related to any conceivable violation of policies governing conduct within the School District. They argued, in addition, that the actions of the School

[3]The letter regarding J.B. stated that a due-process hearing was scheduled for Coretta and Jimmy at 9:00 a.m. on October 24, 2006. The letter concerning Y.B. informed Coretta that a due-process hearing was scheduled for Y.B. and her at 10:00 a.m. on October 24, 2006.

District violated due process and would exclude the Brown children from school, thereby causing irreparable harm to their educational endeavors now and for the rest of their adolescent lives. The Browns requested a TRO until the court could make a determination of the rights pled and that the court further find that the children had suffered irrevocable harm and they had no other adequate remedy at law if the court did not enjoin the School District.

On October 31, 2006, the court entered an order granting the Browns' request for a TRO. In its order, the court noted that the children had not yet been expelled from the school but added that they were currently expelled from classes. In addition to granting the TRO requiring the children to be placed immediately into appropriate classes, the court also found that they should be transferred, as per the request in the motion for TRO, to Beechcrest Elementary School until further directions of the court.

On November 8, 2006, the School District filed its petition for writ of *certiorari* or prohibition and record of proceedings with the Circuit Court of Phillips County listed as appellee. The following day, this court granted a stay of the TRO, ordered any response to the petition for writ of *certiorari*/prohibition to be filed by November 20, 2006, and determined that we would take this petition as a case. We also ordered simultaneous briefs to be filed on December 21, 2006. The first response to the School District's petition was filed on behalf of the Browns as "co-respondents" and was tendered on November 21, 2006,

which was one day late.[4] The brief of the petitioner was timely filed on December 21, 2006. The Browns did not file a brief in this case. Rather, they filed a second response and objection to issuance of a writ of *certiorari* on December 28, 2006, and asserted that they were unable to comply with the court's directive to file a brief because there was no record filed.[5]

In its petition for writ of *certiorari* or prohibition, the School District makes two arguments: (1) petitioners are entitled to a writ of *certiorari* or, in the alternative, a writ of prohibition; (2) on the face of the record, injunctive relief could not be granted by the circuit court.

The School District argues that it is entitled to a petition for writ of *certiorari* because the expulsion order was not final and because the Browns failed to exhaust their administrative remedies before the School Board prior to seeking judicial review. The School District compares this case to *Ford v. Arkansas Game & Fish Commission*, 335 Ark. 245, 979 S.W.2d 897 (1998), where, as in this case, there had been no final action taken by the petitioners. Here, the School District asserts that the Browns chose to avoid the opportunity for a speedy hearing before the School Board to determine the claims involved in this case and sought judicial intervention before the Board had made a final decision

[4]The Browns never formally petitioned to intervene in the School District's petition for extraordinary relief. Nevertheless, they are the real parties in interest, and this court considered their first response in its original petition.

[5]A partial record was filed by the School District on November 8, 2006.

concerning the recommendation of expulsion. According to the School District, if this court allows one to avoid the procedure set out in the statute for suspension or expulsion by alleging racism and bias, and seeking injunctive relief, then the circuit courts of this state will be open to decide all discipline matters involving public schools. The School District notes that the Browns should not be permitted to avoid a hearing and review at this point. Rather, the Browns must first raise all of their arguments at the School Board level pursuant to Ark. Code Ann. § 6-18-507 (Repl. 1999) and obtain a final expulsion decision prior to seeking judicial review.

The School District also distinguishes this case from the case of *Springdale Board of Education v. Bowman*, 294 Ark. 66, 740 S.W.2d 909 (1987). In *Springdale Board of Education*, it maintains, the School Board had made a final decision prior to the chancellor's consideration of the request for injunctive relief. In the instant case, it emphasizes that it has the right by statute to expel a student under § 16-18-507 so long as it provides due-process hearings.

In short, the School District encourages this court to look with disfavor on the procedure employed by the Browns. It argues that the Arkansas statutes are clear—that the hearing regarding expulsion is to be before the School Board and not the court. According to the School District, there could not be a more obvious case of unwarranted judicial interference with the operation of the school system in violation of not only § 6-18-507, but also the decisions of this court which hold that a court is without subject-matter jurisdiction

to hear a claim until administrative action is final and one has exhausted his or her administrative remedies. *See, e.g., Stanton v. American Mfrs. Mut. Ins. Co.*, 362 Ark. 96, 207 S.W.3d 456 (2005) (holding that the trial court lacks jurisdiction over a case and the complaint should, therefore, be dismissed where the plaintiff fails to exhaust his or her administrative remedies prior to filing a lawsuit in circuit court). In light of this, the School District asserts that it is entitled to relief by *certiorari* because the circuit judge acted in excess of his jurisdiction and thereby committed a gross abuse of discretion.

For its second argument, the School District contends that on the face of the record, injunctive relief should not have been granted by the circuit court. It points out that the circuit court's order on its face fails to comply with Rule 65 of the Arkansas Rules of Civil Procedure because the order contains no finding that the Browns were likely to succeed on the merits and no finding of irreparable harm. The School District advances the argument that because the statutes of this state permit expulsion, one cannot claim, as a matter of law, that expulsion (which has not yet been ordered by the School Board) irreparably harms a student.

Although the Browns, as co-respondents, failed to file a brief in this matter, they did file two responses to the School District's request for extraordinary relief. In their first response to the School District's request for a petition for writ of *certiorari* which they filed on November 21, 2006, the Browns asserted that this court, by granting the stay of the circuit court's order, has already destroyed the ability of the Brown children to receive an education

within the public school system of the State of Arkansas in a orderly manner, in violation of the *Lake View* cases. The Browns also asserted that a writ of *certiorari* is inappropriate in this case, where the standard is an abuse of discretion. Further, they claimed that a writ of *certiorari* should not be granted here because there is an adequate remedy at law, which is an ordinary appeal of the circuit court's decision.

The Browns further argued in their first response that they were facing irreparable harm to the educational rights of their children, if they were expelled for a year or more due to the instant litigation. They urged that there is no chance for any student in the school system to receive due process when the hearing and appeal are before the School Board and Superintendent. According to the Browns, it would have been futile for them to attempt to exhaust their administrative remedies under these circumstances where those accusing the Brown children of violations were, in fact, the judge and jury of the sanctions to be imposed against those children.[6]

This court's standard of review for a petition for writ of *certiorari* is as follows:

> A writ of certiorari is extraordinary relief. *Ark. Dep't of Human Servs. v. Collier*, 351 Ark. 506, 95 S.W.3d 772 (2003). In determining its application we will not look beyond the face of the record to ascertain the actual merits of a controversy, or to control discretion, or to review a finding of fact, or to reverse a trial court's discretionary authority. *Id*. There are two requirements that must be satisfied in order for this court to grant a writ of certiorari. The first requirement is that there can be no other adequate remedy but for the writ

[6]We do not consider the Brown's second response filed on December 27, 2006, because it was untimely. By this court's *per curiam* order, responses were due by November 20, 2006, and briefs by December 21, 2006.

> of certiorari. Second, a writ of certiorari lies only where (1) it is apparent on the face of the record that there has been a plain, manifest, clear, and gross abuse of discretion, *or* (2) there is a lack of jurisdiction, an act in excess of jurisdiction on the face of the record, or the proceedings are erroneous on the face of the record. *Id*.

Arkansas Game & Fish Comm'n v. Herndon, 365 Ark. 180, 182, ___ S.W.3d ___, ___ (2006).

We initially address the requirement that there be no adequate remedy as an alternative to a writ of *certiorari*. *See, e.g., Sims v. Circuit Court of Pulaski County*, ___ Ark. ___, ___ S.W.3d ___ (Jan. 18, 2007) (holding that a petition for an extraordinary writ should not lie where an adequate remedy in the form of an appeal is available to the petitioner). In its original opinion, this court dismissed the School District's petition for *certiorari* for the reason that an alternative, adequate remedy did exist in the form of an appeal. *See Helena-West Helena Sch. Dist. #2 of Phillips County v. Circuit Court of Phillips County*, ___ Ark. ___, ___ S.W.3d ___ (Jan. 25, 2007). In its petition for rehearing, the School District counters the assertion that an interlocutory appeal of the TRO is an adequate remedy under these facts. We agree with the School District.

The School District contends in its rehearing petition that this court has treated a petition for *certiorari* as an appeal in the past when the petition is filed before the time for appeal has expired.[7] The School District emphasizes that its *certiorari* petition was filed eight days after the entry of the TRO. Moreover, the School District urges that its *certiorari*

[7]The Browns filed no response to the petition for rehearing.

petition is broader than a mere appeal from the TRO because it seeks a court order dismissing the Browns' complaint with its multiple allegations in its entirety for lack of subject-matter jurisdiction due to the absence of a final expulsion decision and the failure to exhaust administrative remedies.

The School District is right on both counts. First, this court has treated petitions for writs of *certiorari* as appeals in the past when the petition is filed within the appeal time. *See Williamson v. Mitchell Auto Co.*, 181 Ark. 693, 27 S.W.2d 96 (1930) (holding that this court will treat a petition for writ of *certiorari* as an appeal where the time for an appeal has not expired); *Miller v. Tatum*, 170 Ark. 152, 279 S.W. 1002 (1926) (holding that where the time for appeal has not yet expired, it is proper for this court to disregard the method by which the cause was presented to this court and to treat the case as an appeal from the judgment of the lower court); *see also Ark. Pub. Defender Comm'n v. Greene County Circuit Court*, 343 Ark. 49, 53 n.1, 32 S.W.3d 470, 473 n.1 (2000) (stating that our jurisdiction is by way of *certiorari* or appeal where the petitioner also had standing to bring an appeal and where the lower court was without jurisdiction to hear a claim or issue a particular remedy).

Secondly, and more importantly, we are convinced that the School District is correct in pointing out that it desires not merely to prosecute an interlocutory appeal to dissolve the TRO but rather to challenge the subject-matter jurisdiction of the circuit court to hear any allegations or prayer for relief in the Browns' complaint. We agree that those are two different matters. This court has made it clear that the alternative remedy to extraordinary

relief "must be 'plain and complete and as practical and efficient to the ends of justice and its proper administration as the remedy involved.'" *Axley v. Hardin*. 353 Ark. 529, 536, 110 S.W.3d 766, 770 (2003) (quoting *Hanley v. Arkansas State Claims Comm'n*, 333 Ark. 159, 970 S.W.2d 198 (1998)). Here, that is not the case. We conclude that the dismissal of the petition for writ of *certiorari* due to an alternative, adequate remedy was error. We turn then to the merits of the petition.

The kernel of the School District's argument for *certiorari* is the circuit court did not have subject-matter jurisdiction to hear the Browns' complaint because the expulsion decision was not final and the Browns failed to exhaust their administrative remedies before the School Board prior to seeking judicial intervention. Section 6-18-507 of the Discipline Subchapter of the Education Code specifically provides for an administrative procedure in connection with a public school's recommendation of expulsion, including both a hearing and an appeal process, and we hold that that was the remedy for the Browns to pursue.

In *Bowman*, *supra*, which was cited by both parties, this court considered the question of whether the trial court had jurisdiction to decide Bowman's request for injunctive relief. We concluded that the trial court did have this jurisdiction, since Bowman was entitled to establish her right to attend school by testing the School Board's actions in enforcing a school policy against her. As noted by the School District in this case, however, the School Board in *Bowman* had already made the decision to expel the student involved. The instant

case is at odds with those facts, as there has been no final action by the School Board on the expulsion recommendation.

In *Ford*, *supra*, this court recognized the distinction between the question of whether administrative remedies had been exhausted and the question of whether an administrative action must be final before it is judicially reviewable. This court quoted the United States Supreme Court to the effect that while the policies behind the two doctrines are similar, "the finality requirement is concerned with whether the initial decision[-]maker has arrived at a definitive position on the issue that inflicts an actual, concrete injury; the exhaustion requirement generally refers to administrative and judicial procedures by which an injured party may seek review of an adverse decision and obtain a remedy if the decision is found to be unlawful or otherwise inappropriate." *Ford*, 335 Ark. at 253, 979 S.W.2d at 901, quoting *Williamson Planning Comm'n v. Hamilton Bank*, 473 U.S. 172, ___ (1986). We affirmed an order of dismissal in *Ford* on the basis that the Game and Fish Commission had not taken final action on the matter.

In the case before us, neither final action on the issue by the School Board nor any effort by the Browns to exhaust their remedies before the School Board is evident. Indeed, the administrative process before the School Board never began because the Browns avoided their administrative remedies under § 6-18-507 and rushed into court to obtain the TRO. Lack of finality and failure to exhaust administrative remedies clearly preclude judicial

review. *See Ford, supra*; *Austin v. Centerpoint Energy Arkala*, 365 Ark. 138, ___ S.W.3d ___ (2006); *Old Republic Surety Co. v. McGhee*, 360 Ark. 562, 203 S.W.3d 94 (2005).

The dissent discards the fact that in the cases it cites the petitioner had also filed a direct appeal in the same case or a related case, or the time for filing an appeal had passed, or the court's jurisdiction was not exceeded, or the case was distinguishable on the facts. The dissent also disregards the fact that the School District filed its petition for writ of *certiorari* within the time frame of an appeal. And, thirdly, the School District validly contends that it sought by petition not merely to limit itself to dissolving the TRO. Rather, it sought to have the *full complaint dismissed*, including the Browns' claims under our *Lake View* decision and under the Arkansas Civil Rights Act. An appeal limited to dissolving the TRO was not adequate for that purpose. The School District pursued a reasonable course, and one that this court's jurisprudence has recognized, when it petitioned this court for a writ of *certiorari* challenging the circuit court's hasty entry of a TRO before the School District had taken final action.

There is one final point. This court historically has been reluctant to insinuate itself into school operations, including discipline matters, until the school procedures for relief have run their course. We said as much in *Fortman v. Texarkana School District No. 7*, 257 Ark. 130, 514 S.W.2d 720 (1974).

We grant the petition and issue the writ of *certiorari* because the circuit court clearly exceeded its jurisdiction in issuing the TRO before the School Board had made its decision on expulsion. The case, accordingly, was not ripe for judicial review because there was no

final administrative action to review under § 6-18-507. The circuit court's action in this regard was a plain, manifest, clear, and gross abuse of discretion. We set aside the TRO.

Petition for Rehearing Granted.

Petition for Writ of *Certiorari* Granted.

GLAZE, CORBIN, and IMBER, JJ., dissent.

TOM GLAZE, J., dissenting. The majority opinion states that this court has treated petitions for writs of certiorari as appeals in the past when the petition is filed within the appeal time; it relies on two old cases for this proposition. *See Williamson v. Mitchell Auto Co.*, 181 Ark. 693, 27 S.W.2d 96 (1930) (holding that this court will treat a petition for writ of certiorari as an appeal where the time for an appeal has not expired); *Miller v. Tatum*, 170 Ark. 152, 279 S.W. 1002 (1926).

The rule adopted in these two cases makes no sense. Of course, a party has 30 days in which to file a notice of appeal. Why wouldn't the party do so, rather than filing a petition for writ of certiorari within that thirty-day period and ask this court to treat his petition as an appeal? The rule is misleading and confusing and just plain wrong.

DONALD L. CORBIN, J., dissenting. Never in all of my days on the appellate courts of Arkansas have I seen an opinion that is more results oriented than the majority's decision to grant the school district's petition for rehearing. The majority has effectively turned our law on extraordinary writs on its ear. Under the majority's analysis, a party can seek a writ of

certiorari, and even if an extraordinary writ is not warranted, still have the matter heard because this court will now treat a petition for certiorari as an appeal. The majority notes that we have in the past treated such petitions as appeals, and we have, most recently in 1930.

What disturbs me the most is the fact that the majority cites to *Williamson v. Mitchell Auto Co.*, 181 Ark. 693, 27 S.W.2d 96 (1930), and *Miller v. Tatum*, 170 Ark. 152, 279 S.W. 1002 (1926), in support of its decision, but ignores recent cases where we have refused to grant certiorari when a party has the remedy of an appeal available to it. *See, e.g., Sims v. Circuit Court of Pulaski County*, ___ Ark. ___, ____ S.W.3d ___ (Jan. 18, 2007); *Weaver v. Simes*, 365 Ark. 289, ___ S.W.3d ___ (2006); *Cockrum v. Fox*, 359 Ark. 508, 199 S.W.3d 69 (2004); *May Constr. Co., Inc. v. Thompson*, 341 Ark. 879, 20 S.W.3d 345 (2000); *Cooper Cmtys., Inc. v. Circuit Court of Benton County*, 336 Ark. 136, 984 S.W.2d 429 (1999). *See also Conner v. Simes*, 355 Ark. 422, 139 S.W.3d 476 (2003) (holding that certiorari was not a viable option to prohibition where the petitioner had the remedy of an appeal available to him).[8]

Moreover, the majority's opinion is in direct conflict with our prior acknowledgment that certiorari may not be used as a substitute for appeal. *See Ark. Dep't of Human Servs. v. Circuit Court of Sebastian County*, 363 Ark. 389, 144 S.W.3d 738 (2005); *Conner*, 355 Ark. 422, 139 S.W.3d 476; *Arnold v. Spears*, 343 Ark. 517, 36 S.W.3d 346 (2001); *King v. Davis*,

[8] Just recently this court unanimously denied a "Motion for Expedited Writ of Prohibition or, in the Alternative, a Writ of Certiorari" where the appellant had also filed a notice of appeal. *See Potter v. Honorable Kim Martin Smith*, No. 07-161.

324 Ark. 253, 920 S.W.2d 488 (1996); *Neal v. Wilson*, 321 Ark. 70, 900 S.W.2d 177 (1995) (per curiam); *Gran v. Hale*, 294 Ark. 563, 745 S.W.2d 129 (1988).

The majority makes much ado about the school district's assertion that they are not simply challenging the court's order granting the temporary restraining order, but are seeking dismissal of the Browns' complaint because of a lack of subject-matter jurisdiction. According to the district, there has been no final action on the expulsion, and the Browns have failed to exhaust their administrative remedies. The majority focuses on these allegations as an explanation as to why this petition for extraordinary relief is being given special treatment, but a review of our case law on exhaustion of administrative remedies reveals the majority's flawed analysis.

In *Stanton v. American Manufacturers Mutual Insurance Co.*, 362 Ark. 96, 207 S.W.3d 456 (2005), a case cited by the majority, this court determined that a complaint should have been dismissed where the circuit court lacked subject-matter jurisdiction due to the appellant's failure to exhaust her administrative remedies. What is important to note about *Stanton*, is that it was a direct appeal from a decision by the circuit court. In other words, it was not a case where the appellee sought an extraordinary writ due to a failure to exhaust administrative remedies. Likewise, the case of *Ford v. Arkansas Game & Fish Commission*, 335 Ark. 245, 979 S.W.2d 897 (1998), relied on by both the school district and the majority, is a direct appeal of an order dismissing the appellant's suit because of a failure to exhaust administrative remedies, and not a case involving an extraordinary writ. In fact,

the majority does not cite to one case where this court has treated a petition for certiorari as an appeal and held that the lower court lacked jurisdiction because of a party's failure to exhaust administrative remedies. Now, however, the proverbial floodgate is open to other litigants who may choose to circumvent the normal appellate process in favor of the more expeditious extraordinary writ.

In the present case, the school district never argued to the circuit court that the Browns failed to exhaust their administrative remedies or that the circuit court lacked jurisdiction; thus, the school district never gave the circuit court an opportunity to act accordingly. Instead, the district raced to this court seeking our intervention, and the majority is all too happy to oblige, seemingly intent on making sure that the Browns' children are not allowed to attend school anywhere in the district. While I certainly do not condone the inappropriate and disruptive behavior of J.B. or Y.B., I also cannot ignore the fact that the principal's son referred to J.B. with a hateful racial slur.

There is simply nothing about this case that warrants the majority's decision to ignore our well-established precedent that an extraordinary writ will not lie where another adequate remedy at law exists. This case is simply about the majority wanting to reach a certain result and doing so at the expense of our long-standing jurisprudence. For this reason, I respectfully dissent.

IMBER, J., joins in this dissent.