IN THE SUPREME COURT OF ALABAMA
November 3, 2011

1110131

Ex parte Alabama High School Athletic Association and Steven P. Savarese, its Executive Director. PETITION FOR WRIT OF MANDAMUS: CIVIL (In re: The Jefferson County Board of Education et al. v. Alabama High School Athletic Association) (Jefferson Circuit Court: CV-2011-002105).

1110132

Ex parte Alabama High School Athletic Association and Steven P. Savarese, Executive Director. PETITION FOR WRIT OF MANDAMUS: CIVIL (In re: Gadsden City Board of Education, for and on behalf of Gadsden City High School v. Alabama High School Athletic Association and Steven P. Savarese) (Etowah Circuit Court: CV-2011-900623).

1110133

Ex parte Alabama High School Athletic Association and Steven P. Savarese, Executive Director. PETITION FOR WRIT OF MANDAMUS: CIVIL (In re: Decatur City Board of Education, for the benefit of Austin High School v. Alabama High School Athletic Association) (Morgan Circuit Court: CV-2011-900413).

ORDER

Petitioners, Alabama High School Athletic Association and Steven P. Savarese, having presented to the Court a petition for writ of mandamus, supersedeas, stay, injunction, or other appropriate remedy, and the same having been duly examined by the Court,

And in Scott v. Kilpatrick, 286 Ala. 129, 132-32, 237 So. 2d 652, 655 (1970), this Court having held:

> "Participation in high school athletics is an extracurricula activity subject to regulations as to eligibility. Engaging in these activities is a privilege which may be claimed only in accordance with the standards set up for participation.

> "The member schools are in better position to promulgate rules governing participation in high school athletics than anyone else, and are fully cognizant of the reasons underlying such rules.
>
> "If officials of a school desire to associate with other schools and prescribe conditions of eligibility for students who are to become members of the school's athletic teams, and the member schools vest final enforcement of the association's rules in boards of control, then a court should not interfere in such internal operation of the affairs of the association.
>
> "Of course, if the acts of an association are the result of fraud, lack of jurisdiction, collusion, or arbitrariness, the courts will intervene to protect an injured parties rights."

And in AHSAA v. Rose, 446 So. 2d 1, 5 (Ala. 1984), this Court having held:

> "[A]s Kilpatrick and Kubiszyn [v. AHSAA, 374 So. 2d 256 (Ala. 1979) indicate, the burden on the challenger to overcome the presumption favoring the Association's absolute authority in the conduct of its own affairs is a heavy one. We reaffirm the Kilpatrick test to the effect that the Court's jurisdiction in such matters is invoked when, and only when, the averments of fraud, collusion, or arbitrariness are supported by clear and convincing evidence; and the trial court's acceptance of jurisdiction will be affirmed only where its order makes an unequivocal factual finding of one or more of those narrow, restrictive grounds, founded upon clear and convincing evidence."

And it appearing that the November 1, 2011, order of the Jefferson County Circuit Court restraining the enforcement of the order of the ASHAA, does not comply with the standard set out in Kilpatrick and reaffirmed in Rose,

IT IS ORDERED, therefore, that the order of November 1, 2011, of the Circuit Court of Jefferson County, Alabama, in CV-11-0021205, be and hereby is declared to be null and void.

It further appearing that the Circuit Court of Etowah County and the Circuit Court of Morgan County did not acquire jurisdiction to enter orders purporting to restrain the order of the Jefferson Circuit Court,

IT IS ORDERED that the order of November 2, 2011, of the Circuit Court of Etowah County, Alabama, in CV-11-900623, and the order of November 2, 2011, of the Circuit Court of Morgan County, Alabama, in CV-11-900413, are hereby declared to be null and void.

Malone, C.J., and Woodall, Stuart, Parker, Main, and Wise, JJ., concur.

Shaw, J., concurs in the result.

Bolin, J., concurs in part and dissents in part, with writing.

Murdock, J., concurs in the result in part and dissents in part, with writing.

I Robert G. Esdale, Sr., as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.
Witness my hand this 3rd day of November, 2011

Robert G. Esdale, Sr.
Clerk, Supreme Court of Alabama

BOLIN, Justice (concurring in part and dissenting in part).

I hereby concur in this Court's order as to paragraphs 2 and 3, which concern the orders of the Etowah Circuit Court and the Morgan Circuit Court, respectively; I dissent, however, from this Court's order as to paragraph 1, which concerns the Jefferson Circuit Court.

The trial court in Jefferson County entered a temporary restraining order. Rule 65(d)(1), Ala. R. Civ. P., sets forth the scope of a restraining order, and it contains no requirement that the reasons for its issuance be set forth. However, this Court, in a case enjoining the Alabama High School Athletic Association from enforcing a ruling, has stated:

> "[T]he Court's jurisdiction in such matters is invoked when, and only when, the averments of fraud, collusion, or arbitrariness are supported by clear and convincing evidence; and the trial court's acceptance of jurisdiction will be affirmed only where its order makes an unequivocal factual finding of one or more of those narrow, restrictive grounds, founded upon clear and convincing evidence."

Alaama High School Athletic Ass'n v. Rose, 446 So. 2d 1, 5 (Ala. 1984) (emphasis added).

Rule 65(d)(2), Ala. R. Civ. P., sets out the form of injunctions, and requires that "[e]very order granting an injunction shall set forth the reasons for its issuance,"

which, if the trial court here did so, would allow the trial court an opportunity to comply with Rose. The trial court in Jefferson County has set a hearing on a preliminary injunction, and I believe that the plaintiffs should be allowed to have their day in court and that the trial court should be allowed to have a hearing on a requested preliminary injunction, and, if the preliminary injunction is granted, be allowed to enter an order that complies with both Rose and Rule 65(d)(2).

It is not apparent that the plaintiffs in either the Morgan Circuit Court or the Etowah Circuit Court alleged any of the grounds set out in Rose for the acceptance of jurisdiction by those trial courts, i.e., fraud, collusion, or arbitrariness, or any constitutional deprivation, those courts, therefore, never acquired jurisdiction. Accordingly, the orders of those courts are void and should be vacated.

MURDOCK, Justice (concurring in the result in part and dissenting in part).

Introduction

As the Jefferson County respondents note in their brief to this Court:

> "5. There is no dispute in the case that:
>
> - The student [at issue] enrolled in [Clay Chalkville High School ("CCHS")] only after both enrolling in Restoration Academy and completing a 'bona fide move' within the meaning of AHSAA bylaws (Rule 1, § 12, Exception 3) from the Birmingham School District to the Jefferson County School District;
>
> - CCHS complied with every affirmative eligibility verification, recordkeeping, and reporting requirement imposed by [the Alabama High School Association ("the AHSAA")] bylaws;
>
> - No AHSAA bylaw requires -- or even recommends -- that any investigation be

undertaken to verify a student's 'good standing' at his or her previous school, much less at a school attended by the student before attending his previous school;

- Neither the AHSAA bylaws nor the Birmingham Board of Education Code of Student Conduct define or explain the term 'good standing,' or how, by whom, or as what point in time it is to be determined or verified;

- Nothing in the records provided by Restoration Academy to CCHS -- which included the student's transcript information that was provided to Restoration Academy by Huffman High School -- identify or suggest the existence of a disciplinary problem while the student was enrolled at HHS. CCHS officials only learned of an alleged disciplinary problem involving the student at Huffman on October 24, 2011, when a letter sent by HHS' principal to the AHSAA referring to his disciplinary hearing at

HHS was provided to CCHS officials by the AHSAA. ...

"6. There is no allegation (and no evidence supporting any allegation) that CCHS improperly recruited the student, ignored evidence of his ostensible ineligibility, or otherwise knowingly violated any eligibility rule. In fact, the student was unknown to CCHS head football coach Jerry Hood prior to the summer of 2011.

"7. The AHSAA determined the student to be ineligible solely on the basis of a provision in its bylaws (Rule I, § 16) that state as follows:

> ['']A transfer student must be in good standing with the student's previous school.['']

Although the rules elsewhere distinguish between member schools and nonmember schools, no such distinction is made in the provision."

Discussion of the Merits

Section 16 of the bylaws of the Alabama High School Athletic Association ("the AHSAA") states that "a transfer student must be in good standing with the student's previous school." (Emphasis added.) Section 16 could state that a transfer student must be in good standing with "the student's previous schools," or that a transfer student must be in good standing "with any and all schools attended by the student within" some prescribed period of time. It does not do so.[1] For this reason, and on the basis of sound principles concerning the Jefferson Circuit Court's jurisdiction and authority to address the rights of the Jefferson County respondents as members of a voluntary association, I respectfully dissent.

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[1]To put § 16 in perspective, the AHSAA and its members might well have chosen to adopt a rule permitting a player to participate in inter-scholastic athletics so long as the player was merely in good standing with the student's current school. Although the AHSAA did not choose this route either, the point is that nothing prevented the AHSAA from adopting such a rule, and there would have been nothing inherently unreasonable about it doing so. A fortiori, there was nothing that prevented the AHSAA from adopting a rule, and there was nothing unreasonable about it doing so, that hinges a student's eligibility on whether he or she is in good standing with his or her current school and the school attended immediately prior to the current school. For all appearing from the plain language of § 16, that is what the AHSAA and its members have done.

As to the language of the bylaw at issue, if that language is to be deemed unambiguous, we are obligated to give it its plain, ordinary, and commonly understood meaning. Borrowing from principles of statutory construction, a court should interpret plain language "to mean exactly what it says and to engage in judicial construction only if the language in the statute is ambiguous." Ex parte Pratt, 815 So. 2d 532, 535 (Ala. 2001).

> "'Words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used a court is bound to interpret that language to mean exactly what it says. If the language of the statute is unambiguous, then there is no room for judicial construction....'
>
> "IMED Corp. v. Systems Eng'g Assocs. Corp., 602 So.2d 344, 346 (Ala.1992). '"[I]t is well established that criminal statutes should not be "extended by construction."'" Ex parte Mutrie, 658 So.2d 347, 349 (Ala.1993) (quoting Ex parte Evers, 434 So.2d 813, 817 (Ala.1983), quoting in turn

Locklear v. State, 50 Ala. App. 679, 282 So.2d 116 (1973)).

Ex parte Bertram, 884 So. 2d 889, 891 (Ala. 2003).

The language at issue in § 16 purports to prohibit certain conduct. As such, it establishes a basis for depriving a party of rights it would otherwise have under its contractual agreement with a voluntary association and thereby penalizing a party that conducts itself in violation of that prohibition. To that extent, the application of the above-quoted principle concerning penal statutes is instructive. Thus, in Medical & Surgical Society v. Weatherly, 75 Ala. 248, 256 (1883), the Court upheld the reversal by trial court of an interpretation by a voluntary association of its own constitution and did so by relying expressly upon the fact "no principle, in the first place, is better settled, as a mere axiom of universal application, than that all penal laws and regulations must be strictly construed, especially when they are summary in their character, and operate to produce a forfeiture of valuable rights".

> ""Penal statutes are to reach no further in meaning than their words. Fuller v. State, 257 Ala. 502, 60 So. 2d 202 (1952).

"'One who commits an act which does not come within the words of a criminal statute, according to the general and popular understanding of those words, when they are not used technically, is not to be punished thereunder, merely because the act may contravene the policy of the statute. Fuller v. State, supra, citing [Young v. State], 58 Ala. 358 (1877).

"'No person is to be made subject to penal statutes by implication and all doubts concerning their interpretation are to predominate in favor of the accused. Fuller v. State, supra.'"

Bertram, 884 So. 2d at 891 (quoting Clements v. State, 370 So. 2d 723, 725 (Ala. 1979)) (emphasis added).

Consistent with the foregoing principles, if we are to consider the bylaw in question to be unambiguous, we can only do so if we understand it to reference simply the previous school attended. No other understanding of it could be said to comport with a plain reading of its language.

On the other hand, if we are to understand the language of the bylaw as ambiguous so that we can engage in the act of

further interpreting it to mean a reference to a student's "previous schools," we will have run ourselves into another problem, namely that the bylaw could not then be deemed to give notice with sufficient definiteness as to what conduct is prohibited.

> "'"As generally stated, the void-for-vagueness doctrine requires that a penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement." Kolender v. Lawson, 461 U.S. 352 [357], 103 S. Ct. 1855, 1858, 75 L. Ed. 2d 903 (1983) (citations omitted). A statute challenged for vagueness must therefore be scrutinized to determine whether it provides both fair notice to the public that certain conduct is proscribed and minimal guidelines to aid officials in the enforcement of that proscription. See Kolender, supra; Grayned v. City of Rockford, 408 U.S. 104, 92 S. Ct. 2294, 33 L. Ed. 2d 222 (1972).'"

Lansdell v. State, 25 So. 3d 1169, 1175-76 (Ala. Crim. App. 2007) (quoting in Vaughn v. State, 880 So. 2d 1178, 1195 (Ala. Crim. App. 2003); further citations omitted); cf. State v. Cohen, 696 So. 2d 435, 439-440 (Fla. Dist. Ct. App. 1997) (referencing the due process requirement that criminal statutes must apprise ordinary persons of common intelligence what is prohibited).

> "'"'A vague statute does not give adequate "notice of the required conduct to one who would avoid its penalties," Boyce Motor Lines v. United States, 342 U.S. 337, 340, 72 S. Ct. 329, 330, 96 L. Ed. 367, 371 (195[2]), is not "sufficiently focused to forewarn of both its reach and coverage," United

States v. National Dairy Products Corporation, 372 U.S. at 33, 83 S. Ct. at 598, 9 L. Ed. 2d at 566, and "may trap the innocent by not providing fair warning," Grayned v. City of Rockford, 408 U.S. 104, 108, 92 S. Ct. 2294, 2298, 33 L. Ed. 2d 222, 227-28 (1972).

"'"'As the United States Supreme Court observed in Winters v. New York, 333 U.S. 507, 68 S. Ct. 665, 92 L. Ed. 840 (1948):

> "'"'"There must be ascertainable standards of guilt. Men of common intelligence cannot be required to guess at the meaning of the enactment. The vagueness may be from uncertainty in regard to persons within the scope of the act, or in regard to the applicable tests to ascertain guilt."'"'"

Vaughn v. State, 880 So. 2d 1178, 1194-95 (Ala. Crim. App. 2003)(quoting McCall v. State, 565 So. 2d 1163, 1165 (Ala. Crim. App. 1990); further citations omitted).

The AHSAA argues that a literal application of the singular phrase "the student's previous school" would make it possible for a student who has been placed in a disciplinary status by one school to avoid the operation of the rule by transferring to a second school with which he or she is in good standing and then remaining enrolled there for period of only three days before transferring to a third school. That is not the circumstance presented in this case, however; no issue is presented in this case as to whether the student's

transfer to Restoration Academy was undertaken as a sham or cannot be considered a legitimate transfer.[2]

In any event, the AHSAA and its members could have prior to the events in question adopted a rule that without question would apply to the present circumstance. Instead, they adopted a rule that on its face does not apply to this situation. Likewise, the AHSAA is free to alter § 16 of its bylaws in the future by following proper procedures for doing so. Until it does so, however, the rule is what it is and neither the AHSAA or any court is free to make more of it in pursuit of a policy objective, no matter how laudable. "The society, too, must observe its own constitution and laws, until it changes them in legal form." Weatherly v. Medical & Surgical Society, 76 Ala. 567 (1884).

Authority of the Jefferson Circuit Court

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[2]In a footnote in its brief to this Court, the AHSAA briefly states that it was "later discovered" that the student did not complete the spring 2011 semester at Restoration Academy. For all appearing in the materials before us, however, no evidence to this effect was presented to the Jefferson Circuit Court, no such evidence served as the basis for the AHSAA's decision in this matter, and, despite its receipt of documentation from Restoration Academy, Clay-Chalkville High School was not made aware of any such evidence. The footnote does not assert otherwise and does not explain "who" it was that later learned of this supposed fact or when they "later" learned of it.

I turn next to the question of the authority of the Jefferson Circuit Court to entertain the matter at hand and address an alleged injustice. I believe the majority overstates the degree of deference owed to the governing body of the AHSAA.

In Medical Society of Mobile County v. Walker, 245 Ala. 135, 140, 16 So. 2d 321, 325 (1944), this Court held that that mandamus and injunctive relief are available to correct acts on the part of a voluntary society if done in violation of the constitution, bylaw, rules, and regulations of the society. "A court of equity will endeavor to the extent of its powers to bind men's conscience so far as they can be bound to a true and literal performance of their agreements, and will not suffer them to depart from their contracts at pleasure, leaving the party with whom they have contracted to the mere chance of any damage which a jury may assess". 245 Ala at 140, 16 So. 2d at 325. In Scott v. Kilpatrick, 286 Ala. 129, 237 So. 2d 652 (1970), this Court explained that

> "[i]f officials of a school desire to associate with other schools and prescribe conditions of eligibility for students who are to become members of the school's athletic teams, and the member schools vest final enforcement of the association's rules in boards of control, then a court should not interfere in such internal operation of the affairs of the association."

286 Ala. at 132, 237 So. 2d at 655 (citations omitted).

Nonetheless, the Court added that

> "if the acts of an association are the result of fraud, lack of jurisdiction, collusion, or arbitrariness, the courts will intervene to protect an injured [party's] rights. See 6 Am.Jur.2d., Associations and Clubs, Sec. 27, p. 453."

286 Ala. at 132-33, 237 So. 2d at 655.[3]

In Medical & Surgical Society v. Weatherly, supra, the Court considered the meaning and proper application of the written constitution of a medical society, a private voluntary association. The Court acknowledged that that association's constitution was "in the nature of a contract between its

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[3]The majority relies upon the statement in Alabama High School Athletic Ass'n v. Rose, 446 So. 2d 1, 5 (Ala. 1984) that the Court

> "reaffirm[ed] the Kilpatrick test to the effect that the Court's jurisdiction in such matters is invoked when, and only when, the averments of fraud, collusion, or arbitrariness are supported by clear and convincing evidence; and the trial court's acceptance of jurisdiction will be affirmed only where its order makes an unequivocal factual finding of one or more of those narrow, restrictive grounds, founded upon clear and convincing evidence."

The opinion in Kilpatrick contains no statement requiring an explicit or unequivocal finding by clear and convincing evidence and the Rose opinion cites no other authority for its statement of such a test. In this case, the arbitrariness of the AHSAA's action is evidenced by the wording of the bylaw in question.

members, that they are bound by its provision by reason of express assent in assuming the obligations of membership." 75 Ala. at 256. Nonetheless, the Court upheld the decision of the trial court exercising jurisdiction over the dispute and reversing a decision by the society that its constitution required a summary expulsion of one of its members. The Supreme Court observed that the association's constitution "is equally binding ... upon the society, as such, in its corporate capacity." Id. at 256. It then applied the principles contained in the following analysis in issuing its decision in favor of the excluded association member:

> "We can entertain no doubt of the jurisdiction of the courts of this State to interfere, in all proper cases, by mandamus, as an appropriate remedy for the wrongful disfranchisement or amotion of a corporator, and to restore him to the enjoyment of a franchise of which he has been illegally deprived. This right of supervision over bodies corporate is one of great antiquity in our law, and is regarded as derived from the visitatorial power, always impliedly reserved by the Sovereign or the State in granting corporate charters, and which is exercised through the courts of common law jurisdiction. -- High on Extr. Rem. §§ 291, 293. The modern and better view is, that this right of judicial visitation is not confined to public corporations, but extends as well to those of a purely private nature. Nor is it limited to such as are organized strictly for business purposes, or pecuniary profit, but is made applicable also to corporations formed for eleemosynary, religious, scientific, or other like purposes. -- Angell & Ames' Corp. § 704; State v. Milwaukee Cham. Commerce, 47 Wis. 670[, 3 n.W. 760 (1879)]. The King, under our ancient law, was the legally constituted visitor of all corporations,

whose franchises may have been granted to subjects by his grace and authority, a jurisdiction, which was exercised through the medium of the courts, and the chief function of which was 'to render their charters, or constitutions, ordinances and by-laws of perfect obligation, and generally to maintain their peace and good government.' -- Angell & Ames' Corp. (11th Ed.) § 684; 2 Kent, Com. 300. The just reason is that a corporate franchise is property, incorporeal, it is true, but deemed none the less valuable in the eye of the law. Each individual member, as remarked by Sir William Blackstone, is said in such cases to be the owner of the franchise, and his privilege of membership, we may add on high authority, is, therefore, properly subject to the protection of the courts as valuable, although it may have no actual market value. -- 2 Black. Com. 37; State v. The Georgia Medical Society, 38 Ga. 608 [(1869)]; Moses on Mandamus, p. 184; [[Trustees of] Dartmouth College v. Woodward, 4 Wheat. 518 [17 U.S. 518 (1819)].

"The purposes for which this jurisdiction is commonly exercised is left in no doubt by the authorities. In High, on Extraordinary Remedies, § 294, it is said to be now a well established rule, that 'mandamus will lie to restore to his corporate rights a member of a corporation who has been improperly disfranchised or irregularly removed from his connection with the corporation. And while the court will not inquire into the merits of the decision of corporate authorities in expelling or removing a corporator in the regular course of proceedings, yet, if the amotion has been conducted without due authority, the courts will interfere by mandamus to compel the restoration of the member to his corporate franchise.' The same rule is declared, in substance, in Angell & Ames on Corporations (11th Ed.), § 695, where it is said that this jurisdiction will be exercised for compelling corporations generally 'to observe the ordinances of their constitution, and to respect the rights of those entitled to participate in their privileges.' 'If a corporator has been unjustly or irregularly amoved or suspended from his office, or

disfranchised, the court,' it is added, 'will grant mandamus to restore him.' -- Ib. § 704. ...

"...

"It is not denied that the relator, Weatherly, was in default by reason of his failure to make punctual payment of his annual dues. It is true that for this he offers an excuse, but with the sufficiency of this we have nothing to do, the merit or demerit of it being a matter within the peculiar cognizance of the society. Our inquiry is confined to the mere legal construction of the foregoing provisions of the constitution imposed by this society upon itself for its own orderly government, and which must be taken as the law of the case, so far as they are violative of no rule of law or canon of reason. In this work of construction, however, there are certain cardinal rules of interpretation which must be constantly kept in mind. No principle, in the first place, is better settled, as a mere axiom of universal application, than that all penal laws and regulations must be strictly construed, especially when they are summary in their character, and operate to produce a forfeiture of valuable rights. 'The general policy of the law,' moreover, as observed by a learned Justice, speaking for the New York Court of Appeals, in The People v. The Medical Society of the County of Erie, 32 N.Y. 187 [(1865)], 'is opposed to sharp and summary judgment, where the party whose rights are in jeopardy has no opportunity to be heard in his own defense.' This has been properly urged by counsel as a controlling and pivotal principle in the decision of this cause. It is applicable to ordinances of sovereign conventions, constitutions of government, Federal and State, the statute laws of all civil polities, whether republican or monarchical, the ordinances of municipalities, and to the by-laws and regulations of voluntary societies, whether incorporated or unincorporated."

75 Ala. at 252-56.

The principles contained in the foregoing analysis support the intervention of the Jefferson Circuit Court in the dispute under consideration here.

The Authority of the Etowah and Morgan Circuit Courts

Finally, with respect to the apparent confusion resulting from the fact that three different circuit courts in this State appear to have exercised jurisdiction over the same matter, this Court's holding in Ex parte McMichael, 62 So. 3d 465 (Ala. 2010), is applicable:

> "In Ex parte Liberty National Life Insurance Co., 631 So. 2d 865 (Ala. 1993), this Court stated:
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> > "'"It is uniformly held that where two or more courts have concurrent jurisdiction, the one which first takes cognizance of a cause has the exclusive right to entertain and exercise such jurisdiction, to the final determination of the action and the enforcement of its judgment or decrees....
> >
> > "'"... 'It is a familiar principle that when a court of competent jurisdiction has become possessed of a case its authority continues, subject only to the appellate authority, until the matter is finally and completely disposed of, and no court of co-ordinate authority is at liberty to interfere with its action....'
> >
> > "'"... 'All the authorities recognize the importance of

> carefully preserving the boundary line between courts of concurrent jurisdiction, in order to prevent conflicts, and to preserve in harmony their relations to each other.'"
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> "'Ex parte Burch, 236 Ala. 662, 665, 184 So. 694, 697 (1938).
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> "'These principles have been restated numerous times:
>
> > "'"[W]here two courts have equal and concurrent jurisdiction, the court that first commences the exercise of its jurisdiction in a matter has the preference and is not to be obstructed in the legitimate exercise of its powers by a court of coordinate jurisdiction."
>
> "'Ex parte State ex rel. Ussery, 285 Ala. 279, 281, 231 So.2d 314, 315 (1970)....'"
>
> "631 So. 2d at 867."

McMichael, 62 So. 3d at 471-72 (emphasis added).

The Jefferson Circuit Court "first took cognizance of [the] cause" at issue here and first exercised its jurisdiction as to the subject matter of this dispute generally and the AHSAA in particular. Allowing the Etowah and Morgan Circuit Courts to enter judgments affecting the same matter, and indeed directing one of the two parties in the Jefferson action to not abide by the judgment of the Jefferson Circuit Court, would clearly enable the Etowah and

Morgan Circuit Courts to "obstruct" the Jefferson Circuit Court "in the legitimate exercise of its powers" in contravention of fundamental and well-established principles essential to the harmonious and effective operation of this State's judicial system. Parties such as the Etowah and Morgan respondents that may be affected by the ruling of the Jefferson Circuit court may have the right to intervene, even postjudgment, in the Jefferson action in order to vindicate any rights they may have, see generally Rule 24, Ala. R. Civ. P., but they do not have the right to ask a coordinate circuit court to enter an order intended to obstruct the first court's order. Accordingly, the judgments entered by the Etowah and Morgan Circuit courts are due to be vacated, and the actions pending in those courts dismissed.

Conclusion

To the extent that clauses 2 and 3 of the final paragraph of the Court's order today achieve a result consistent with the above-expressed conclusions regarding the lack of authority on the part of the Etowah and Morgan Circuit courts in this matter, I concur in that result. Otherwise, I respectfully dissent.