

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

LAKESHA DOE, Parent, *et al.*

PLAINTIFFS

v.

No. 4:15-cv-623-DPM

JOHNNY KEY, In His Official Capacity
as Commissioner of Education and the
LRSD School Board, and MICHAEL
POORE, In His Official Capacity as
Superintendent of the Little Rock
School District

DEFENDANTS

ORDER

LRSD, joined by Commissioner Key in his capacity as the LRSD board, moves to dismiss or for judgment on the pleadings. LRSD says this is the right answer on the remaining facilities/programs claim—for the same reasons the Court gave in dismissing the charter schools and takeover claims some months ago. *No 72 & 92*. The Doe Plaintiffs respond with many reasons why their last claim should go forward. Though powerful, LRSD's arguments fall short at this point.

The difference between the claims that the Court rejected as implausible and the remaining claim is the record. There's two-days worth of proof on facilities from the injunction hearing. And there are some bits about things

beyond facilities in there, too. The Court denied a preliminary injunction, concluding that the parents and children were unlikely to succeed. But they have a plausible claim. In fairness, the amended complaint must be read with the evidentiary record already compiled. As the Court has noted, too, the facts about the new high school in southwest Little Rock continue to develop. *No 77 & No 92 at 2*. Taken in the light most favorable to the parents and children, those developing facts show at least some hedging, if not some braking. The parties are one month short of being done with discovery on the facilities/programs claim. We have a first-out setting in July, four trial days to complete the record. The most prudent way to resolve this case is on the merits, then. Perhaps there are some law issues (limitations? the global settlement?) that should be ventilated before trial to focus the proof. That's Defendants' call. In any event, LRSD and Key can argue all their defenses, factual and legal, at trial.

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Joint Motion, *No 99 & 102*, denied without prejudice.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

9 March 2017
