STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1773

Itasca County,
Appellant,

vs.

Teamsters Local 320,
Respondent,

Minnesota State Court System, Ninth Judicial District,
Respondent.

Filed June 26, 2017
Affirmed
Schellhas, Judge

Itasca County District Court
File No. 31-CV-15-2083

Scott M. Lepak, Karen K. Kurth, Barna, Guzy & Steffen, Ltd., Coon Rapids, Minnesota (for appellant)

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Considered and decided by Schellhas, Presiding Judge; Halbrooks, Judge; and Randall, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

U N P U B L I S H E D O P I N I O N

SCHELLHAS, Judge

Appellant challenges the dismissal of its action seeking a declaration from the district court regarding the scope of its obligation to negotiate certain grievance procedures and terms and conditions of employment under a proposed labor contract. We affirm.

FACTS

This appeal concerns a labor dispute that arose after appellant Itasca County and respondent Teamsters Local 320 failed to negotiate a collective-bargaining agreement under the Public Employment Labor Relations Act (PELRA), Minn. Stat. §§ 179A.01–.25 (2016).

Local 320, an employee organization under PELRA,[1] petitioned the Minnesota Bureau of Mediation Services (BMS) for a determination of an appropriate unit and certification of Local 320 as the exclusive representative of probation officers in Itasca County. Itasca County is a political subdivision of the State of Minnesota and has its county seat in Grand Rapids. The county operates a correctional delivery system under Minn. Stat. § 244.19 (2016) in which the Minnesota Department of Corrections (DOC) provides probation services for adult felons and the county provides probation services for juveniles and adult non-felons.

[1] PELRA defines "employee organization" as "any union or organization of public employees whose purpose is, in whole or in part, to deal with public employers concerning grievances and terms and conditions of employment." Minn. Stat. § 179A.03, subd. 6.

During the mediation proceedings, Itasca County questioned whether it could be deemed under PELRA to be the public employer[2] of the probation officers because the county does not act as a traditional employer in all respects. Specifically, the state court system, not Itasca County, has the power to appoint and remove probation officers, and the DOC reimburses a portion of the probation officers' salaries and fringe benefits. The BMS rejected the county's arguments and concluded that Itasca County is the probation officers' public employer under PELRA. Itasca County did not seek certiorari review of the BMS's decision. The BMS then conducted a mail-ballot election, and Local 320 was certified as the exclusive representative of the probation officers.

With the assistance of the BMS, Itasca County and Local 320 negotiated to reach a collective-bargaining agreement, but the negotiations stalled because of the county's position that, under Minn. Stat. § 244.19, the district court retained exclusive authority in some employment areas. Specifically, the county questioned its authority to negotiate certain grievance procedures and terms and conditions of employment.[3] The parties did not seek interest arbitration. *See Black's Law Dictionary* 126 (10th ed. 2014) (defining "interest arbitration" to be "[a]rbitration that involves settling the terms of a contract being

[2] PELRA defines "public employer" to include "the governing body of a political subdivision or its agency or instrumentality which has final budgetary approval authority for its employees." Minn. Stat. § 179A.03, subd. 15(a)(6).

[3] PELRA defines "terms and conditions of employment" as "the hours of employment, the compensation therefor including fringe benefits except retirement contributions or benefits other than employer payment of, or contributions to, premiums for group insurance coverage of retired employees or severance pay, and the employer's personnel policies affecting the working conditions of the employees." Minn. Stat. § 179A.03, subd. 19.

negotiated between the parties; esp., in labor law, arbitration of a dispute concerning what provisions will be included in a new collective-bargaining agreement"). Itasca County instead sued Local 320, seeking a declaration of rights defining the scope of its bargaining obligations.

After both parties moved for summary judgment, the district court ordered Itasca County to amend its complaint to add respondent Minnesota State Court System, Ninth Judicial District, as a co-defendant. The Ninth Judicial District then moved to dismiss for lack of subject-matter jurisdiction. Itasca County and Local 320 opposed the motion to dismiss. Following a hearing, the court dismissed the declaratory-judgment action, concluding that it lacks subject-matter jurisdiction because Itasca County and Local 320 had not reached a contract and the dispute had not been arbitrated or resubmitted to the BMS for clarification or a supplemental decision.

This appeal follows.

D E C I S I O N

I

Itasca County and Local 320 challenge the district court's conclusion that the court lacks subject-matter jurisdiction over the declaratory-judgment action. "Subject-matter jurisdiction is the court's authority to hear the type of dispute at issue and to grant the type of relief sought." *Seehus v. Bor-Son Const., Inc.*, 783 N.W.2d 144, 147 (Minn. 2010). The existence of subject-matter jurisdiction "is a question of law that [appellate courts] review de novo." *Nelson v. Schlener*, 859 N.W.2d 288, 291 (Minn. 2015) "Defects in subject-matter jurisdiction may be raised at any time, and cannot be waived by the parties." *Seehus*,

783 N.W.2d at 147. "Additionally, subject-matter jurisdiction cannot be conferred by consent of the parties." *Id.* (quotation omitted).

Itasca County and Local 320 argue that the district court has jurisdiction to consider the lawsuit under the Uniform Declaratory Judgments Act, Minn. Stat. §§ 555.01–.16 (2016). The act gives courts of record the "power to declare rights, status, and other legal relations whether or not further relief is or could be claimed." Minn. Stat. § 555.01. Specifically, "[a]ny person . . . whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise may have determined any question of construction or validity arising under the . . . statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder." Minn. Stat. § 555.02. But a court has no jurisdiction over a declaratory-judgment action unless a justiciable controversy exists. *Onvoy, Inc. v. ALLETE, Inc.*, 736 N.W.2d 611, 617 (Minn. 2007). A justiciable controversy exists when the claim "(1) involves definite and concrete assertions of right that emanate from a legal source, (2) involves a genuine conflict in tangible interests between parties with adverse interests, and (3) is capable of specific resolution by judgment rather than presenting hypothetical facts that would form an advisory opinion." *McCaughtry v. City of Red Wing*, 808 N.W.2d 331, 336–37 (Minn. 2011) (quotation omitted).

The Ninth Judicial District argues that PELRA places jurisdiction over the dispute with an arbitrator, not the district court. We agree. Under PELRA, "[a] public employer has an obligation to meet and negotiate in good faith with the exclusive representative of public employees in an appropriate unit regarding grievance procedures and the terms and

conditions of employment." Minn. Stat. § 179A.07, subd. 2(a); *see also* Minn. Stat. § 179A.06, subd. 5 (providing that public employees have a reciprocal obligation to meet and negotiate in good faith with their employer). To assist with negotiations, both the public employer and the exclusive representative have the right to petition the BMS for mediation services. Minn. Stat. § 179A.15. Alternatively, the parties may request interest arbitration. Minn. Stat. § 179A.16. In any event, PELRA requires the public employer and the exclusive representative to "execute a written contract or memorandum of contract containing the terms of the negotiated agreement or interest arbitration decision and any terms established by law." Minn. Stat. § 179A.20, subd. 1; *see also* Minn. Stat. § 179A.01(c)(2) (stating that public policy is best accomplished by "requiring public employers to meet and negotiate with public employees in an appropriate bargaining unit and providing that the result of bargaining be in written agreements").

This statutory scheme demonstrates that the legislature has divested the district court of jurisdiction to resolve this dispute. "Minnesota has a strong public policy of favoring arbitration as a means of resolving labor disputes." *Ellerbrock v. Bd. of Ed., Special Sch. Dist. No. 6*, 269 N.W.2d 858, 862 (Minn. 1978). And the supreme court has recognized that the "underlying policy and purpose of PELRA is to discourage litigation and promote simple, informal procedures for resolution of conflict." *Minn. Ed. Ass'n v. Indep. Sch. Dist. No. 495*, 290 N.W.2d 627, 629 (Minn. 1980) (quotation omitted). By seeking declaratory judgment, the county is improperly attempting to circumvent the statutory requirement to execute a written agreement through negotiation or arbitration. *See* Minn. Stat. § 179A.20, subd. 1.

Itasca County argues that the district court has jurisdiction and maintains that the district court is "not being asked . . . to make a declaration regarding the terms and conditions of the probation officers' employment" but rather "to declare what the County's obligations are to meet and negotiate in good faith regarding grievance procedures and the terms and condition[s] of employment." The county asserts that a declaration regarding its obligation to negotiate would allow "the parties [to] get 'back to the table' to discuss the actual terms and conditions of employment that the County is authorized to negotiate." But the county does not explain why arbitration would be insufficient to resolve this dispute, and we see no such reason. Allowing parties to seek declaratory judgment under these circumstances would undermine the policy that impasses encountered in labor negotiations should be resolved in arbitration. *See Ellerbrock*, 269 N.W.2d at 862.

Itasca County and Local 320 also argue that arbitration "is not an option" here because the probation officers are nonessential employees.[4] In support of their argument, they cite *Gen. Drivers, Helpers, & Truck Terminal Emps., Local 120 v. City of St. Paul*, 270 N.W.2d 877 (Minn. 1978). In that case, two bargaining units of nonessential employees commenced a lawful strike after their employer, the City of St. Paul, declined to engage in arbitration. *Local 120*, 270 N.W.2d at 878 & n.1. Labor unions representing city employees in other bargaining units then brought an action seeking a declaration that

[4] PELRA defines "essential employee" in part as "firefighters, peace officers subject to licensure under sections 626.84 to 626.863, 911 system and police and fire department public safety dispatchers, guards at correctional facilities, confidential employees, supervisory employees, assistant county attorneys, assistant city attorneys, principals, and assistant principals." Minn. Stat. § 179A.03, subd. 7.

employees in those units could lawfully initiate sympathy strikes. *Id.* at 879. In its recitation of the facts of the case, the court stated in a footnote: "It is only where the employees are 'essential,' and therefore may not strike, that the employer must agree to arbitration." *Id.* at 878 n.1 (citing *St. Paul Prof'l Emps. Ass'n v. City of St. Paul*, 303 Minn. 106, 226 N.W.2d 311 (1975)).

Itasca County and Local 320 appear to read *Local 120* to hold that arbitration is not available here because the probation officers are nonessential employees. But the case does not support that conclusion. Instead, the *Local 120* court merely recognized that, when faced with a request for arbitration from nonessential employees, the public employer has the options of arbitrating or accepting a lawful strike. *Id.* at 878 ("In this situation the city had a choice between agreeing to arbitration or accepting a lawful strike by the two bargaining units represented by Council 91." (footnote omitted)). The case does not suggest that arbitration is unavailable to nonessential employees. Indeed, PELRA specifically authorizes arbitration in situations involving nonessential employees: "An exclusive representative or an employer *of a unit of employees other than essential employees* may request interest arbitration by providing written notice of the request to the other party and the commissioner." Minn. Stat. § 179A.16, subd. 1 (emphasis added). The argument that arbitration is "not an option" under these circumstances therefore fails.

Finally, Itasca County suggests that the district court has jurisdiction over the declaratory-judgment action because of the separation-of-powers doctrine. But the county does not develop the argument or provide any supporting authority. The argument therefore

is forfeited. *See Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (stating that issues not adequately briefed on appeal need not be addressed).

II

The Ninth Judicial District argues alternatively that the declaratory-judgment action is an attack on the BMS's decision, which may be reviewed only by writ of certiorari. The argument is unavailing. "District courts do not have subject-matter jurisdiction over claims that must be resolved in a certiorari appeal." *Zweber v. Credit River Twp.*, 882 N.W.2d 605, 609 (Minn. 2016) (citing *Dokmo v. Indep. Sch. Dist. No. 11*, 459 N.W.2d 671, 676–78 (Minn. 1990)). The Ninth Judicial District asserts that the declaratory-judgment action here is actually a challenge to the BMS's determination that Itasca County is the public employer of the probation officers under PELRA. Itasca County and Local 320 dispute that characterization and maintain that they are not challenging the BMS's determination that the county is the public employer of the probation officers.

Contrary to the Ninth Judicial District's assertion, the declaratory-judgment action does not challenge the BMS's decision. The BMS indicated at the beginning of its decision that it was resolving four issues: (1) "Who is the public employer, under Minnesota Statute § 179A.03, Subd. 15 (2013), for Probation Officers in Itasca County?"; (2) "What is the description of the appropriate bargaining unit?"; (3) "Which employees fall within the appropriate bargaining unit?"; and (4) "Has [Local 320] submitted the required showing of interest to warrant the conduct of an election?" Itasca County's complaint for declaratory judgment does not challenge the BMS's conclusions regarding any of those issues. The county concedes in its complaint that it is a public employer of the probation officers under

PELRA. And the complaint asks for a declaration as to the county's "obligations to meet and negotiate in good faith with [Local 320] regarding grievance procedures and the terms and conditions of employment pursuant to Minn. Stat. § 179A.07 and Minn. Stat. § 244.19." That issue was not resolved by the BMS. Because the declaratory-judgment action is not challenging the issues previously decided by the BMS, the Ninth Judicial District's argument fails.

Affirmed.