

COA Opinion: Injunction preventing school district from subcontracting union services not warranted

19. June 2011 By Sarah Lindsey

In *Michigan AFSCME Council 25 and Local 3552 v. Woodhaven-Brownstone School District*, No. 299945 (approved for publication on June 16, 2011), the Michigan Court of Appeals vacated the lower court's decision enjoining the Woodhaven-Brownstone School District from subcontracting its custodial, facility maintenance, and transportation work while the union's unfair labor practice charge was pending before the Michigan Employment Relations Commission (MERC).

Michigan AFSCME Council 25 and its affiliate, Local 3552, a labor union representing non-instructional employees of Woodhaven-Brownstone School District, filed an unfair labor practices charge with MERC. While the charge in front of MERC was pending, the union filed an action to enjoin the school district from subcontracting the work of the union's members. The trial court granted the preliminary injunction. The school district filed an application for leave to appeal to the Court of Appeals, which peremptorily reversed the trial court's order. The Michigan Supreme Court then vacated the Court of Appeals' decision and remanded the case to the Court of Appeals for reconsideration. On reconsideration, the Court of Appeals again reversed the trial court's decision.

The Court of Appeals considered the following factors in analyzing the trial court's decision to grant the injunction: (1) the danger the party seeking the injunction will suffer irreparable harm without an injunction; (2) the likelihood that the party seeking the injunction will prevail on the merits; (3) the risk that the party seeking the injunction would be harmed more by the absence of the injunction than the opposing party would be by granting relief; and (4) the harm to the public interest if the injunction is issued.

The Court first examined irreparable harm. The union claimed that if its members were laid off during the MERC action, they would be harmed by losing their health insurance benefits. The trial court agreed. The Court of Appeals, however, concluded that the union failed to present particularized evidence of such harm. The Court asserted that an affidavit showing particular member's medical conditions or the inability to afford health insurance may have been sufficient, but the union failed to present such evidence. The Court also rejected the union's claim that it would suffer irreparable harm by ceasing to exist if subcontracting were allowed. The Court stated that while some members may choose to find other employment, there was no evidence that the bargaining unit as a whole would be destroyed absent an injunction.

The Court next analyzed the likelihood that the union would prevail on the merits of its MERC action. The Court held that such a result was unlikely because there was evidence the union had been given an opportunity to bid for the non-instructional jobs at issue. According to the statute in question (MCL 423.215), once the union was given the opportunity to bid for such jobs, it was then prohibited from negotiating the decision to subcontract those jobs as part of its collective bargaining agreement. Thus, the Court concluded, the union's unfair labor practices claim was unlikely to succeed.

The Court briefly addressed the final two factors. First, it held that the trial court erred in concluding that an injunction was in the public interest. Next, the Court concluded that the union failed to show the school district would be able to recoup tax dollars if it succeeded in the MERC action. Accordingly, there was no basis for the trial court to conclude that the harm to the union outweighed the harm to the district.