

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
NINTH DIVISION**

BRYANT SCHOOL DISTRICT

PLAINTIFF

VS.

CASE NO. CV-13-4185

ARKANSAS ACTIVITIES ASSOCIATION

DEFENDANT

**ORDER DISMISSING THE PLAINTIFF'S COMPLAINT
FOR A PRELIMINARY AND PERMANENT INJUNCTION**

Pending before the Court are the Plaintiff's Complaint for Preliminary and Permanent Injunction and the Defendant's Answer. A hearing on the preliminary injunction was conducted. The Plaintiff, Bryant School District, was represented by Randy Rutherford, Superintendent of the Bryant School District, and Jay Bequette, attorney. The Defendant, Arkansas Activities Association, was represented by Lance Taylor, Executive Director of the Arkansas Activities Association, and Ed McCorkle, attorney. The Plaintiff, Bryant School District ("Bryant"), is a school district organized and existing pursuant to the laws of the State of Arkansas located in Bryant, Saline County, Arkansas. The Defendant, Arkansas Activities Association ("AAA"), is a voluntary group of middle, junior, and senior high schools, public and private, which has been accredited by the Arkansas Department of Education or the Arkansas Non-Public School Accrediting Association, with headquarters in North Little Rock, Pulaski County, Arkansas. The AAA promulgates and enforces eligibility standards and other rules involving athletics.

In the Plaintiff's Complaint for Preliminary and Permanent Injunction, Bryant sought to restrain and enjoin the AAA from reassigning the Bryant School District from the 7A/6A South Conference to the 7A/6A Central Conference for the 2014-2016 classification cycle, such that Bryant would remain in the 7A/6A South Conference for the 2014-2016 classification cycle. However, at the hearing, Bryant Superintendent Randy Rutherford testified that the Court should place the Bryant School District in the prospective 6A South Conference and move one of the Little Rock schools from the prospective 6A South Conference into the prospective 7A/6A Central Conference for the 2014-2016 classification cycle.

For the 2012-2014 classification cycle, the AAA assigned Bryant to the 7A/6A South Conference which included one (1) 7A school, Bryant, and seven (7) 6A schools; Benton, El Dorado, Lake Hamilton, Little Rock Fair, Pine Bluff, Sheridan, and Texarkana. In June, 2012, the AAA directed the staff to begin forming a classification committee for the 2014-2016 classification cycle. AAA Executive Director Lance Taylor and AAA President Joe Couch reported at the AAA Board of Directors meeting that the 7A/6A Reclassification Committee, comprised of 16 members, met on or about October 10, 2012 to discuss ways to make classification of schools equitable. The 7A/6A Reclassification Committee recommended that for the 2014-2016 classification cycle that the 7A West be an eight (8) Team Conference of 7A schools only, the 6A South be an eight (8) Team Conference of 6A schools only, the 7A/6A Central be an eight (8) Team Conference of four (4) 6A schools and four (4) 7A schools, and the 7A/6A East be an eight (8) Team Conference of four (4) 6A schools and four (4) 7A schools. The recommendation from the 7A/6A Reclassification Committee came to the AAA Board of Directors with a 15-0 vote from the 7A/6A Reclassification Committee.

The AAA Board of Directors did not make a recommendation concerning the proposal before submitting it to the member schools for consideration. Member schools of the 7A and 6A divisions approved the proposal by a vote of 26 votes for and 7 against, meeting the AAA requirement of a two-thirds vote for passage.

The AAA released information concerning the recommended assignments of each member school to their conference. Bryant was assigned to the 7A/6A Central Conference. Bryant appealed their assignment to the 7A/6A Central Conference and the AAA Board of Directors denied Bryant's appeal to be a member of the 6A South Conference. Bryant argued that the AAA Board of Directors ignored geographic considerations which are required when assigning member schools to conferences per the AAA Handbook. AAA contended that geographic considerations were taken into consideration when assigning member schools to conferences. Additionally, AAA contended that Bryant could not be a member of the 6A South Conference as this conference is comprised solely of 6A schools and Bryant is a 7A school.

The threshold question presented by this case is whether this Court has jurisdiction to decide a complaint based on actions taken by the AAA. The Arkansas Supreme Court spoke specifically to this issue in Arkansas Activities Association, et al. v. Meyer, 304 Ark. 718 (1991). In Meyer, the Court held,

The AAA [] raises the argument that the courts are powerless to interfere in the affairs of voluntary organizations. As a general rule, the AAA is correct. It is well settled that the power of the courts to review the actions of voluntary associations is extremely limited, and the courts will avoid interference with such associations except in case of "fraud, lack of jurisdiction, or the invasion of property or pecuniary rights or interests." *Bruce v. South Carolina High School League*, 189 S.E.2d 817, 819 (S.C. 1972). The *Bruce* court went on to say that the decisions of associations and their tribunals will be accepted by the courts as conclusive "in the absence of mistake, fraud, illegality, collusion, or arbitrariness." *Id.*

Meyer, 304 Ark. at 721-22. The Court in Meyer went on to state that the Appellee, Meyer, asserted the constitutional violations of arbitrariness and capriciousness, denial of due process, deprivation of pursuit of happiness and enjoyment of life, and violation of equal protection of the laws. Id. at 722. Meyer argued that a clause contained in an AAA rule was unconstitutional for the reasons stated above. Id. Because of these assertions of unconstitutionality, the Meyer Court held, the courts had jurisdiction to review the decision of the AAA. Id.

In this case, Bryant is not arguing fraud, lack of jurisdiction, the invasion of property or pecuniary rights or interests, mistake, fraud or collusion. Therefore, for this Court to determine that it has jurisdiction, there must be adequate claims of illegality or arbitrariness. If the actions taken by the AAA were in fact in violation of Bryant's constitutional rights, then they would indeed be illegal, and jurisdiction would lie with this Court. Additionally, if the actions taken by the AAA were arbitrary, jurisdiction would lie with this Court.

The Court in Meyer held that, "[T]here is clearly no constitutional right to play sport or engage in other school activities." Id. at 722. In the arguments presented before the Court, counsel for Bryant did not put forth any constitutional arguments regarding the decision made by the AAA. Therefore, it is not necessary for this Court to analyze Bryant's claims under constitutional standards.

Bryant argued in its filings and during the hearing that the decision made by the AAA was arbitrary, capricious, and without rational basis because the reassignment was based on factors that were not and are not in the conference assignment rule.

Bryant contended that because AAA's conference assignment rule requires the AAA Board of Directors to assign schools geographically and that the AAA ignored this rule in assigning Bryant to the 7A/6A Central Conference instead of the 7A/6A South Conference, the AAA decision was arbitrary, capricious, and without rational basis. The Defendant AAA argued that placing Bryant in the 7A/6A South Conference would be impossible for the 2014-2016 classification cycle as no such Conference would then exist.

The AAA Handbook provides for the method to revise the composition of conferences. Article XII, Section 2 of the AAA Constitution provides:

A. Any activity district, conference, etc., may petition the Board of Directors for a revision of the member schools in one or more conferences with a definite plan for such revision. The Board of Directors shall consider such a plan and if approved submit the plan to all schools of the state in the classification concerned for approval either by mail vote or a meeting called by the AAA president for this purpose.

B. If such a plan is approved by two-thirds of the schools in the classification, the new conferencing plan shall be considered adopted.

C. The Board of Directors shall review the membership of conferences when reclassifying schools and is authorized to submit plans for revisions to improve the travel required for participation in athletic conference events for the majority of member schools being reassigned.

The 7A/6A Reclassification Committee presented a plan for the 2014-2016 classification cycle to the Board of Directors. Specifically, the 7A/6A Reclassification Committee recommended that four (4) conferences comprised of 7A and 6A member schools be created for the 2014-2016 classification cycle with the 7A West being an eight (8) Team Conference of 7A schools only, the 6A South being an eight (8) Team Conference of 6A schools only, the 7A/6A Central being an eight (8) Team Conference of four (4) 6A schools and four (4) 7A schools, and the 7A/6A East being an eight (8) Team Conference of four (4) 6A schools and four (4) 7A schools.

The AAA Board of Directors submitted the proposal to member schools for consideration. Member schools of the 7A and 6A divisions approved the proposal by a vote of 26 votes for and 7 against, meeting the AAA requirement of a two-thirds vote for passage. The four (4) conferences for the 2014-2016 classification cycle were created in accordance with AAA rules.

The AAA Handbook provides for the method for the Board of Directors to assign schools to conferences. Article II, Section 6, Rule 1 of the AAA Bylaws provides:

The AAA Board of Directors assigns schools geographically to conferences for each two-year cycle. Schools may be in a conference other than indicated by the location of their county in an activity district. The largest 32 schools shall be assigned geographically to four conferences for regular season play in all applicable sports. For the purpose of determining state champions in such sports, a championship shall be conducted among the largest 16 schools and separately among the next largest 16 schools.

Bryant was assigned geographically to the 7A/6A Central Conference for the 2014-2016 classification cycle by the AAA Board of Directors. The two (2) Little Rock schools were assigned geographically by the AAA Board of Directors to the 6A South Conference for the 2014-2016 classification cycle because they are 6A schools. These schools were placed in their prospective conferences in accordance with AAA rules.

The proposed reassignment by Bryant would not be in accordance with AAA rules. Assigning Bryant, a 7A school, to a non-existent conference or a conference to be composed solely of 6A schools for the 2014-2016 classification cycle would be in violation of AAA rules. Removing one of the Little Rock schools, both 6A schools, from the 6A South Conference and placing it in the 7A/6A Central Conference already containing four (4) 6A schools geographically placed by the Board of Directors for the 2014-2016 classification cycle would be in violation of AAA rules. Bryant has failed to establish that the AAA decision was arbitrary, capricious, or without a rational basis.

Bryant argued that it would suffer irreparable harm in the absence of a preliminary injunction citing concerns related to travel for Bryant's students, parents, and patrons; the impact of playing four (4) 6A schools for the purposes of Bryant's postseason participation and seeding; and the impact to Bryant's athletic budget due to increased opponents' travel times and expenses. AAA contended that the impact related to travel is an issue that may affect all schools whenever conference reassignment occurs and that the proposed reassignment for Bryant would complicate playoff determinations. If the Court were to reassign one of the Little Rock schools from the 6A South Conference to the 7A/6A Central Conference and Bryant from the 7A/6A Central Conference to the 7A/6A South Conference, which will not exist in the 2014-2016 classification cycle, or the 6A South Conference as Bryant requested, one of the Little Rock schools would experience similar impacts from travel changes. Bryant's request to play seven (7) 6A schools would prospectively result in absolutely zero conference games counting for postseason participation and seeding purposes under prospective AAA rules because competitions against schools in the same classification in the same conference will only count for postseason consideration. Such a lack of postseason participation for Bryant would inevitably affect Bryant's athletic budget. Bryant's argument and proposed reassignment would force the Court to decide which school or schools should bear the impact from conference reassignment. The scenario before the Court is illustrative of why courts have been extremely limited in their ability to review the actions of voluntary associations, notably the AAA, and severely diminishes the persuasiveness of Bryant's argument that it will suffer irreparable harm.

The Defendant AAA and the Plaintiff Bryant, as a member of the AAA, should be encouraged to work to create future conference assignments that encourage optimal geographic and competitive parity. Article XII, Section 2 of the AAA Constitution provides methods for the parties to accomplish this goal. The Court notes that Bryant's superintendent is a member of an AAA working group that is attempting to address travel and other concerns related to conference and classification assignment.

Therefore, for all the reasons stated, the Court dismisses with prejudice the Complaint for a Preliminary and Permanent Injunction.

IT IS SO ORDERED. Dated this 5th day of February, 2014.

Mary Opelen McGowan
CIRCUIT JUDGE

February 5, 2014
DATE

Judge McGowan
Date 2/5/14 Div 9th
Jury Trial
Bench Trial
Non-Trial