

Bond Case Briefs

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SCHOOL FUNDING - KANSAS

Gannon v. State

Supreme Court of Kansas - February 11, 2016 - P.3d - 2016 WL 540725

School districts that lost funding due to reductions in base state aid per pupil (BSAPP) filed suit against state, challenging constitutionality of school funding under state constitution's education article on both adequacy and equity grounds.

Following trial, the District Court ruled that state violated education article by failing to provide suitable funding for education and that state created unconstitutional, wealth-based disparities among districts. State appealed. The Supreme Court affirmed in part, reversed in part, and remanded. On remand, a three-judge panel of the District Court determined THAT state failed to meet equity and adequacy requirements of education article, issued remedial orders to enforce holdings, and directed districts to join state officials. State appealed as a matter of right and equity and adequacy portions of appeal were bifurcated.

The Supreme Court of Kansas held that:

- Panel unnecessarily joined state officials in their official and personal capacities;
- Panel did not exceed scope of Court's mandate by reviewing Classroom Learning Assuring Student Success Act's (CLASS) capital outlay and supplemental general state aid provisions;
- Panel applied proper equity test;
- State failed to carry its burden to show that it had cured capital outlay's unconstitutional inequities; and
- State failed to carry its burden to show that it had cured supplemental general state aid's unconstitutional inequities.

District court panel unnecessarily joined certain state officials in their official and personal capacities under compulsory joinder statute to provide for enforcement of any order that might ensue on remand from Supreme Court's determination that state failed to meet adequacy and equity requirements of state constitution's education article in school district's action against state challenging constitutionality of school funding. It was possible for complete relief to be accorded among existing parties in officials' absence.

On remand from Supreme Court's decision that state failed to meet its duty to provide equity in public education under state constitution's education article, district court panel did not exceed scope of Supreme Court's mandate by reviewing capital outlay and supplemental general state aid provisions under Classroom Learning Assuring Student Success Act (CLASS), which was new funding system enacted in response to Court's decision, for compliance with education article's equity requirement. Supreme Court specifically instructed panel to review any legislative action taken in response to Court's decision for constitutional compliance, and panel needed to review CLASS to comply with Court's directive that panel ensure school funding inequities were cured.

On remand from Supreme Court's decision that state failed to meet its duty to provide equity in public education under state constitution's education article, district court panel applied proper

equity test adopted by Court on prior appeal, instructing panel to evaluate any legislative response to Court's decision by considering whether response sufficiently reduced unreasonable wealth-based disparity among districts so disparity then became constitutionally acceptable, not whether cure necessarily restored funding to prior levels. Panel determined that legislature had not fully funded capital outlay and the supplemental general state aid provisions, but had otherwise attempted to cure inequities, and panel quoted language of equity test several times in determining that state failed to meet equity requirements.

State failed to carry its burden to show that it had cured unconstitutional capital outlay inequities for fiscal year 2015 on remand from Supreme Court's determination that state created unconstitutional, wealth-based disparities among school districts under state constitution's education article in districts' action against state, challenging constitutionality of school funding. Although state demonstrated that more money was provided than before, state failed to show that increase provided students in districts entitled to capital outlay state aid with reasonably equal access to substantially similar educational opportunity through similar tax effort.

State failed to carry its burden to show that it had cured unconstitutional supplemental general state aid inequities for fiscal year 2015 on remand from Supreme Court's determination that state created unconstitutional, wealth-based disparities among school districts under state constitution's education article in districts' action against state, challenging constitutionality of school funding. Although state showed that amount of supplemental general state aid was greater than previous years' funding, state still made it more difficult for aid-receiving districts to provide substantially similar educational opportunities through tax efforts similar to their wealthier counterparts.

State failed to carry its burden to show that it had cured unconstitutional capital outlay inequities through Classroom Learning Assuring Student Success Act (CLASS) on remand from Supreme Court's determination that state created unconstitutional, wealth-based disparities among school districts under state constitution's education article in districts' action against state, challenging constitutionality of school funding. Despite contention that any reduction in aid was relatively minimal and did not impact educational opportunity, losses only affected districts with lower property wealth entitled to aid, and aid-qualifying districts would have not received any additional aid even if districts increased their tax burden or if districts' property values increased, since CLASS froze funds at prior year's amount, which did not comply with Court's equity order.

State failed to carry its burden to show that it had cured unconstitutional supplemental general state aid inequities through Classroom Learning Assuring Student Success Act (CLASS) on remand from Supreme Court's determination that state created unconstitutional, wealth-based disparities among school districts in districts' action against state, challenging constitutionality of school funding under state constitution's education article. Despite contention that any change in supplemental general state aid was relatively minimal and that there was no evidence showing any aid reductions would have impacted districts' access to substantially similar educational opportunities, CLASS's failure to provide additional supplemental general state aid even to those districts that chose to obtain more funds through their own efforts exacerbated wealth-based disparities between districts and did not comply with Court's equity order.

School districts were not entitled to attorney fees during remedial phase of districts' action against state, challenging constitutionality of school funding, following remand from Supreme Court's decision that state failed to meet its duty to provide equity in public education under state constitution's education article. Districts failed to raise claim in district court on remand, districts' request for fees was not so narrowly drawn as to warrant interpretation as a request for only appellate attorney fees, and even if request could be interpreted in such a light, districts failed to file motion for attorney fees and supporting affidavit required under rule authorizing appellate attorney

fees.