

No. 118585

IN THE
SUPREME COURT OF ILLINOIS

IN RE: PENSION REFORM LITIGATION
(consolidated pursuant to Supreme Court Rule 384)

) Appeal from the Circuit Court
) for the Seventh Judicial
) Circuit, Sangamon County,
) Illinois, No. 2014 MR 1
) Honorable JOHN W. BELZ,
) Judge Presiding

DORIS HEATON, *et al.*,
Plaintiffs-Appellees,
v.
PAT QUINN, Governor of Illinois, *et al.*,
Defendants-Appellants.

)
) Originally Filed as
) Cook County Case
) No. 2013 CH 28406
)

RETIRED STATE EMPLOYEES ASS'N RETIREES,
et al.,
Plaintiffs-Appellees,
v.
PATRICK QUINN, Governor of Illinois, *et al.*,
Defendants-Appellants.

)
) Originally Filed as
) Sangamon County Case
) No. 2014 MR 1
)
)

ILLINOIS STATE EMPLOYEES ASS'N, *et al.*,
Plaintiffs-Appellees,
v.
BOARD OF TRUSTEES OF STATE EMPLOYEES
RETIREMENT SYSTEM OF ILLINOIS, *et al.*,
Defendants-Appellants.

)
) Originally Filed as
) Sangamon County Case
) No. 2014 CH 3
)
)

GWENDOLYN A. HARRISON, *et al.*,
Plaintiffs-Appellees,
v.
PATRICK QUINN, Governor of Illinois, *et al.*,
Defendants-Appellants.

)
) Originally Filed as
) Sangamon County Case
) No. 2014 CH 48
)

STATE UNIVERSITIES ANNUITANTS ASS'N, *et al.*,
Plaintiffs-Appellees,
v.
STATE UNIVERSITIES RETIREMENT SYSTEM, *et al.*,
Defendants-Appellants.

)
) Originally Filed as
) Champaign County Case
) No. 2014 MR 207
)

**RESPONSE TO APPELLEES' MOTION FOR A
FOUR-WEEK EXTENSION TO FILE THEIR BRIEF**

Defendants-Appellants respectfully request that the Court deny Plaintiffs-Appellees' motion for a four-week extension to file their brief, which would effectively nullify the Court's December 10, 2014 Order setting this case for argument during the March 2015 Term.

Summary of Argument

Plaintiffs' motion effectively seeks reconsideration of the Court's December 10, 2014 Order granting an accelerated docket, without any persuasive justification for such reconsideration. The Court already considered and, over Plaintiffs' written objection, granted Defendants' motion for an accelerated docket in this appeal, which was justified by the serious consequences of delaying a resolution of this case. The Court's December 10, 2014 Order set the case for argument during the March 2015 Term and included an accelerated briefing schedule consistent with a March argument. The circumstances justifying that schedule have not changed, and Plaintiffs do not claim they have changed. Instead, Plaintiffs effectively seek reconsideration of that Order by urging the Court to prolong this schedule by a month, which would necessarily postpone the argument until after the March Term and would make it virtually impossible for the General Assembly and the Governor to benefit from the Court's decision when they establish the State's budget for fiscal year 2016, which must realistically be passed by the end of May 2015. The delay Plaintiffs seek would thus greatly disserve the public interest.

Nor do the circumstances that Plaintiffs invoke — amicus briefs submitted by various parties supporting Defendants' position — justify this delay. Plaintiffs' motion should therefore be denied.

Factual Background

This direct appeal under Supreme Court Rule 302 involves five cases challenging the validity of Public Act 98-599 (the "Act"), which were consolidated in the Circuit Court of Sangamon County pursuant to Supreme Court Rule 384. The Act included, among other things, various changes to the

Pension Code that modify future pension benefit increases for active and retired members of four state-funded retirement systems: the Teachers' Retirement System, the State Employees' Retirement System, the State Universities Retirement System, and the General Assembly Retirement System. Defendants are appealing the circuit court's judgment declaring the Act unconstitutional and void in its entirety based on its conclusion that the Pension Clause of the Illinois Constitution (art. XIII, § 5), unlike the Contracts Clauses of the Illinois and United States Constitutions (U.S. Const. art. I, § 10; Ill. Const. art. I, § 16), creates super-contracts that cannot be modified under any circumstances, no matter how extreme.

Eight days after filing their notice of direct appeal to this Court, Defendants filed a motion for an accelerated docket pursuant to Rule 311(b) asking this Court to "accelerate this appeal to facilitate a resolution enough in advance of the May 31, 2015 deadline for passage of the State's fiscal-year 2016 budget (beginning on July 1, 2015) that the General Assembly and the Governor may take the Court's decision into account when adopting the fiscal year 2016 budget." (Motion, ¶ 9.) Defendants noted that because the Act changes the schedule of state contributions to the affected retirement systems over a 30-year period, the circuit court's ruling "creates uncertainty about whether the State must find alternative means to cover the budget shortfall if the contribution reductions provided by the Act are unavailable." (*Id.*, ¶ 14.) Plaintiffs' response to Defendants' motion characterized Defendants' concerns as "a false sense of urgency." (Resp. at 2.)

Over Plaintiffs' objections, this Court granted Defendants' motion for an accelerated docket. The Court's December 10, 2014 Order specified that Defendants' brief would be due on January 12, 2015, Plaintiffs' brief would be due on February 16, 2015, and Defendants' reply brief would be due on February 27, 2015. The Order scheduled oral argument for the March Term.

Adhering to that schedule, Defendants filed their brief and supporting appendix on January 12, 2015. Consistent with Illinois Supreme Court Rule 345, on that same date various *amici curiae* filed motions for leave to submit briefs in support of Defendants' position, urging the Court to reverse the circuit court's decision.

Discussion

The circumstances that justified the accelerated docket entered by the Court in its December 10, 2014 Order have not changed. Nonetheless, Plaintiffs seek to nullify that schedule and postpone the Court's argument to a date when it will be virtually impossible for the General Assembly and the Governor to have the benefit of the Court's ruling when they formulate the State's budget. Plaintiffs' motion is, therefore, tantamount to a motion for reconsideration of the Court's December 10, 2014 Order. Their arguments seeking such reconsideration are unconvincing, and their motion should be denied.

In their motion, Plaintiffs fail entirely to address the considerations that led Defendants to seek an accelerated docket. The State must still pass a budget for the coming fiscal year, realistically by May 31, 2015. And the State's contributions to the relevant retirement systems, as well as the corresponding long-term fiscal consequences to the State, vary significantly depending upon the resolution of this case. To give the Court sufficient time to review and rule on this matter in advance of the May 31, 2015 budget deadline, oral argument must still be held during the Court's March Term, with briefing completed long enough before the argument to enable the Court to consider fully the relevant issues. The 28-day extension sought by Plaintiffs' motion until March 16, 2015, only a few days before the end of the March Term would make all of that impossible.

Plaintiffs point to the robust support that Defendants' position in this appeal has received from various *amici curiae* as a justification for changing, and effectively negating, the schedule the

Court entered. But that support, which could hardly be unexpected given the significance of the issues presented in this case, does not warrant postponing the Court's argument. The 35-day period the Court gave Plaintiffs to file their brief (which, unlike the schedule for Defendants, is not shorter than the ordinary briefing schedule) should be more than adequate for them to address all relevant issues.

Even if any more time were justified, the extension Plaintiffs seek is greatly excessive. An extension beyond a week would realistically prevent the Court from hearing this case during the March Term. If, therefore, the Court does grant Plaintiffs any additional time to file their brief, that extension should be only until February 23, 2015, with Defendants' reply brief due on March 6, 2015, thus enabling the Court to give full consideration to the critical issues presented by this appeal both before and after an argument during the March Term.

WHEREFORE, Defendants respectfully request that this Court deny Plaintiffs' request for a four-week extension to file their brief.

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Certificate of Filing and Service

The undersigned, an attorney, certifies that on January 21, 2015, he caused the foregoing Response to Appellees' Motion for a Four-Week Extension to File Their Brief to be filed electronically with the Clerk of the Supreme Court of Illinois, and an electronic copy and a hard copy to be served by e-mail and by postage-prepaid first class mail, as indicated, to:

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