

STATEMENT OF ISSUES

I.

WHETHER THE CIRCUIT COURT AND DEPARTMENT ERRED IN CONCLUDING THAT THE UNION'S UNFAIR LABOR PRACTICE COMPLAINTS WERE NOT TIME-BARRED.

Trial Court: The circuit court affirmed the Department's decision that the Union's claims were not time-barred.

II. WHETHER THE CIRCUIT COURT ERRED IN AFFIRMING THE DEPARTMENT'S DECISION THAT THE COUNTY UNLAWFULLY BARGAINED TO IMPASSE ON THE ISSUE OF MANAGEMENT RIGHTS.

Trial Court: The circuit court affirmed the Department's decision that the County violated SDCL §§3-18.3.1(1) and (5) by bargaining to impasse on the issue of management rights.

III. WHETHER THE CIRCUIT COURT AND DEPARTMENT ERRED IN RETROACTIVELY APPLYING THEIR NEW HOLDING TO FIND THAT THE COUNTY VIOLATED SDCL §3-18-3.1(1) & (5).

Trial Court: The circuit court affirmed the Department's decision to retroactively apply its new rule and find that the County violated SDCL §3-18-3.1(1) and (5).

IV. WHETHER THE CIRCUIT COURT ERRED IN REVERSING THE DEPARTMENT AND HOLDING THAT A NON-SCHOOL DISTRICT PUBLIC EMPLOYER IN SOUTH DAKOTA MUST IMPLEMENT ALL TERMS AND CONDITIONS CONTAINED WITHIN ITS LAST, BEST AND FINAL OFFER UPON REACHING A BARGAINING IMPASSE.

Trial Court: The circuit court overruled the Department and held that upon reaching impasse all South Dakota public employers are required to implement their last, best and final offer and that offer cannot vary from what was proposed by the employer, except to the extent any such offer is illegal.

- V. WHETHER THE CIRCUIT COURT AND DEPARTMENT ERRED IN FINDING THAT THE COUNTY VIOLATED SDCL §3-18-3.1(1) & (3) BY NOT AWARDING BARGAINING UNIT MEMBERS A PAY INCREASE COMMENSURATE WITH THAT GIVEN TO NON-BARGAINING UNIT MEMBERS.

Trial Court: The circuit court and Department ordered the County to retroactively pay bargaining unit members a pay increase commensurate with that given to non-bargaining unit members, plus interest.

- VI. WHETHER THE COURT ERRED IN AFFIRMING THE DEPARTMENT'S DECISION THAT THE UNION DID NOT COMMIT AN UNFAIR LABOR PRACTICE IN VIOLATION OF SDCL §3-18-3.2 BY REFUSING NEGOTIATE COLLECTIVELY IN GOOD FAITH.

Trial Court: The circuit court affirmed the Department's finding that the Union negotiated in good faith.

- VII. WHETHER THE CIRCUIT COURT ERRED IN AFFIRMING THE DEPARTMENT'S FINDING THAT THE COUNTY VIOLATED SDCL §3-18-3.1(5) BY INFORMING THE UNION THAT THE COUNTY COULD NOT GUARANTEE A RETROACTIVE WAGE INCREASE IN THE ABSENCE OF A SIGNED CONTRACT.

Trial Court: The circuit court affirmed the Department's conclusion that the statement amounted to a threat to withhold a wage increase that violated SDCL §3-18-3.1(5)

VIII. WHETHER THE CIRCUIT COURT OR DEPARTMENT HAD THE AUTHORITY TO ORDER THE COUNTY:

1. TO CEASE AND DESIST FROM REQUIRING AGREEMENT TO OR IMPLEMENTATION OF ANY MANAGEMENT RIGHTS PROVISION ;
2. TO NOTIFY ALL OF THE COUNTY'S EMPLOYEES THAT THE COUNTY HAS COMMITTED UNFAIR LABOR PRACTICES AND ANY "RESULTANT ACTIONS THEY WILL IMPLEMENT TO CORRECT SUCH IMPROPRIETIES OR ACTS . . . ."; and
3. TO PAY BARGAINING UNIT MEMBERS BACKPAY WITH INTEREST .

Trial Court: The circuit court concluded it and the Department possessed such authority.

IX. WHETHER THE CIRCUIT COURT ERRED IN DELEGATING TO THE UNION THE AUTHORITY TO APPROVE OR REJECT THE NOTICE TO BE SENT BY THE COUNTY TO EMPLOYEES.

Trial Court: The circuit court concluded that it could delegate this responsibility to the Union.