

IN THE CIRCUIT COURT OF LONOKE COUNTY, ARKANSAS
FIRST DIVISION

MELISSA BOSCH, WALTER McNEIL,
LAURA McNEIL, CYNTHIA McCLURE
MEAGEN HAYNES, JOHN O'BRIEN
JENNIFER O'BRIEN, and JORDAN BAKER

PETITIONERS

V. NO. 43CV-21-580

CABOT PUBLIC SCHOOLS;
TONY THURMAN, Superintendent, in his official capacity;
JOE TRUSTY, School Board President, in his official capacity;
PAM CLEM, board member, in her official capacity;
DR. JAMES HERTZOB, board member, in his official capacity;
MARVIN JONES, board member, in his official capacity;
SARAH OWEN, board member, in her official capacity; and
COREY WILLIAMS, board member, in his official capacity

RESPONDENTS

ORDER DENYING TEMPORARY INJUNCTION

On the 26th day of August 2021, evidence was presented, exhibits received and legal arguments by Petitioner's attorney and Respondents' attorney were heard by the Court. The Court being sufficiently advised, DOTH FIND AND ORDER.

1. Petitioners requested the court to issue a Temporary Restraining Order (TRO) on the 30 day Covering Policy of the Cabot Public Schools. The court was able to expedite the matter on its calendar.
2. In this matter, the Court had to determine standing as to the TRO. Some of the named Petitioners have no children in the Cabot Public Schools, and some of the Petitioners' children have exemptions to wearing the mask. Cynthia McClure has two school aged children but neither are enrolled in the District. This individual has no standing in this matter. Walter McNeil and Laura McNeil withdrew their child from the District before this matter was filed with the Court. These Petitioners have no standing in this matter.
3. John O'Brien and Jennifer O'Brien have one child in the District, but that child has an exemption and is not subject to the face covering requirement. Jordan Baker has

three children in the District and each has an exemption and are not subject to the face covering requirement. Meagen Haynes has two children in the district. One child is still attending the District and received a religious exemption to wearing the face covering requirement from the Cabot Public Schools. The other child withdrew from Cabot Public Schools because of the 30 day Covering Policy. That child did not request an exemption. The child is now enrolled in Connection Academy. Also, that child would not return to Cabot Public School this year even if the mask mandate was lifted. The mask mandate does not apply to Meagen Hayne or Jordan Baker; therefore they have no standing to contest the TRO.

4. Melissa Bosch has three children attending Cabot Public School. One child has special needs and is not required to wear a mask. The other two children are required to wear a mask. This is the only Petitioner that has standing in the TRO.
5. In determining whether to issue a TRO pursuant to Rule 65, a circuit court must consider (1) whether irreparable harm will result in the absence of an injunction or restraining order, and (2) whether the moving party has demonstrated a likelihood of success on the merits.
6. Petitioners' counsel argues the mask mandate is a violation of the parents' fundamental right to parent their children. Therefore they have established harm. Many of the Petitioners' children are exempt from wearing the mask or do not attend the Cabot Public Schools. The Petitioners have failed to establish irreparable harm will result in the absence of a TRO. Petitioners still have a right to educate their children through public schools, or private schools or by home schooling their children. Many of the Petitioners have chosen an alternate to public schools. Also, Petitioner, Melissa Bosch, who is the only Petitioner whose children are required to wear the mask, has not exhausted her remedies through the Cabot Public Schools.

She has not requested an exemption. Petitioners have failed to produce evidence or law to establish a need for a restraining order.

7. For the above stated reasons the Temporary Restraining Order requested in this matter is denied.

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "Barbara Elmore". The signature is written in black ink and is positioned above a horizontal line.

Barbara Elmore
Circuit Judge