

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
FOURTH DIVISION

LOGAN ARMSTRONG, EMILY BALL,
RONALD BATES, CYNTHIA EYIUCHE,
and KURT JOHNSEN

PLAINTIFFS

VS. CV 2021-4507

ASA HUTCHINSON, IN HIS OFFICIAL CAPACITY
AS GOVERNOR OF ARKANSAS, AND
CHARISSE CHILDERS, IN HER OFFICIAL
CAPACITY AS DIRECTOR, ARKANSAS DIVISION
OF WORKFORCE SERVICES

DEFENDANTS

ORDER

Comes now before the Court the Matter of the Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction, and based on the files and records of the case, the arguments made at the hearing held July 28, 2021, and all other matters considered, the Court DOTH FIND:

Plaintiffs have sued the Defendants by way of a Complaint filed with the Pulaski County Circuit Clerk on July 23, 2021. Both Defendants were served with a copy of the Complaint on July 26, 2021. The Complaint is styled as a plea for declaratory and injunctive relief against the Governor of the State of Arkansas and the Director of the Department of Workforce Services owing to the Governor's decision to terminate the extended pandemic-relief unemployment benefit plans funded by the federal government. On the same date as the filing of the Complaint, the Plaintiffs filed a Motion for Temporary Restraining Order and Preliminary Injunction, alleging that the Governor's decision will subject the Plaintiffs to irreparable harm and that they have a reasonable probability of success on the merits. An emergency hearing was held the morning of July 28, 2021.

These programs are clearly voluntary, and a state may decide whether to participate in them or not. This Court is faced with the question of who gets to determine whether to participate – the executive branch or the legislative.

Arkansas Code Annotated § 11-10-312 mandates that “[i]n the administration of this chapter, the Director of the Division of Workforce Services shall cooperate with the United States Department of Labor to the fullest extent consistent with the provisions of this chapter and shall take such action, through the adoption of such appropriate rules, administrative methods, and standards as may be necessary to secure to this state and its citizens all advantages available under the provisions of the Social Security Act that relate to unemployment compensation[.]” This provision, as well as others in Subchapter 3 of the Arkansas Code Chapter on Department of Workforce Services Law, indicates to the Court that the State legislature has clearly stated its public policy. The clear meaning of Arkansas law in this regard is that the State is to participate in these types of programs for the benefit of its citizens.

Ark. Code Ann. § 11-10-102 speaks directly to the public policy of this issue. “Involuntary unemployment is a subject of general interest and concern which requires appropriate action by the General Assembly to prevent its spread and to tighten its burden which may fall with crushing force upon the unemployed worker and his or her family... The General Assembly, therefore, declares that in its considered judgment the public good and the general welfare of the citizens of this state require the enactment of this measure, under the police power of the state, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own.”

The Court finds that the Plaintiffs have a reasonable likelihood of success on the merits and are likely to suffer harm in the absence of a preliminary injunction. The Court has serious doubts that the Governor and the Director of Workforce Services were acting within the scope of their duties, as these decisions would normally be the subject of legislation from the General Assembly.

The Motion for Preliminary Injunction should be granted. With an eye toward the plain meaning of the statutes above and the clear public policy of this State, the State is ordered to reengage these terminated programs if the United States Government will agree to permit the

State to do so. If the appropriate federal authorities reject such a reinstatement, the State will immediately provide proof of such communication to the Court.

IT IS SO ORDERED

HERBERT T. WRIGHT, JR. – CIRCUIT JUDGE

DATE



Arkansas Judiciary

Case Title: LOGAN ARMSTRONG ET AL V ASA HUTCHINSON
ET AL
Case Number: 60CV-21-4507
Type: ORDER MOTION GRANTED

So Ordered

A handwritten signature in black ink, appearing to read "Herb Wright".

Honorable Herbert T Wright