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DISTRICT I

[Decision No. 29933-D]

April 10, 2002

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[NOTE: This document was re-keyed by WERC.
Original pagination has been retained.]

You are hereby notified that the Court has entered the following opinion and order:

01-1016 Milwaukee District Council 48, AFSCME, AFL-CIO, and its
affiliated Local 1486 v. Wisconsin Employment Relations
Commission (L.C. #00 CV 7694)

Before Fine, Schudson and Curley, JJ.

Milwaukee District Council 48 AFSCME, AFL-CIO, and its affiliated Local 1486 (AFSCME) appeal from a circuit court decision and order that dismissed AFSCME's petition for review of a Wisconsin Employment Relations Commission (WERC) decision. WERC had dismissed AFSCME's petition for interest arbitration under WIS. STAT. § 111.70(4)(cm)6 (1999-2000)¹, because the cover letter to AFSCME's petition indicated that the negotiations for which AFSCME sought WERC involvement were not at an impasse, a requirement for interest arbitration. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We affirm.

¹ All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

The facts are undisputed. AFSCME, as bargaining representative for a group of clerical employees in the Maple Dale – Indian Hill School District, filed a petition for interest arbitration with WERC. *See generally* WIS. STAT. § 111.70(4)(cm)6. In the cover letter accompanying its petition, AFSCME stated: “It is our intent to continue negotiations [with the school district] on a regular basis unless an impasse is reached.” Based on this language, the school district asked WERC to dismiss the petition because, by AFSCME’s own account, the impasses required for arbitration had not been reached. *See* WIS. STAT. §§ 111.70(4)(cm)6a & am. WERC agreed with the school district and dismissed the arbitration petition.

After petitioning WERC for a rehearing and having that request denied, AFSCME sought judicial review of WERC’s decision. Subsequent to the WERC decision, however, members of the clerical bargaining unit filed a petition to decertify AFSCME as their representative. Instead of proceeding to a decertification election, AFSCME disclaimed interest in that bargaining unit. Because AFSCME no longer represented the bargaining unit on whose behalf AFSCME sought interest arbitration, WERC asked the circuit court to dismiss the action as moot. The circuit court agreed with WERC that the matter was moot. *See Schwarzbauer v. Menasha*, 33 Wis. 2d 61, 63, 146 N.W.2d 402 (1966) (a case is moot when “a determination is sought which, when made, cannot have any practical effect upon an existing controversy”). The circuit court also concluded that the matter met none of the criteria for deciding a moot issue. *See State v. Gray*, 225 Wis.2d 39, 66, 590 N.W.2d 918 (1999) (reviewing court may decide a moot issue if: (1) the issue is of great public importance; (2) the constitutionality of a statute is involved; or (3) the issue is likely to rise again and a court decision would alleviate uncertainty). AFSCME appeals, contending that the circuit court incorrectly concluded that the issue was moot and, in the alternative, that even if moot, the issue met the criteria for deciding a moot issue. We disagree.

The circuit court determined in a comprehensive, well-reasoned, and well-written decision that AFSCME's action was moot because AFSCME no longer represented the bargaining unit on whose behalf AFSCME sought arbitration. In addition, the circuit court concluded that the petition did not meet any of the exceptions to the mootness doctrine, in that the case did not present an issue of great public import and was not the type likely to recur. There is no need to repeat the circuit court's specific analysis here. Instead, we adopt the four-page decision of the circuit court as the opinion of this court in disposing of this appeal. *See* WIS. CT. APP. IOP VI(5)(a)(Sept. 27, 2000).

IT IS ORDERED that the decision and order of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

Cornelia G. Clark
Clerk of Court of Appeals