

**IN THE SUPREME COURT OF THE STATE OF KANSAS**

No. 113,267

LUKE GANNON, BY HIS NEXT FRIENDS AND GUARDIANS, *et al.*,  
*Appellees*,

v.

STATE OF KANSAS; RON ESTES, IN HIS INDIVIDUAL CAPACITY AND IN HIS OFFICIAL  
CAPACITY AS KANSAS STATE TREASURER; AND JIM CLARK, IN HIS OFFICIAL CAPACITY  
AS SECRETARY OF THE KANSAS DEPARTMENT OF ADMINISTRATION,  
*Appellants*.

**ORDER**

Article 6, section 6(b) of the Kansas Constitution provides that "[t]he legislature shall make suitable provision for finance of the educational interests of the state." Article 6 contains at least two components: equity and adequacy. See, *e.g.*, *Gannon v. State*, 298 Kan. 1107, 1163, 319 P.3d 1196 (2014).

In January 2013, the district court panel held that the State created unconstitutional wealth-based disparities among school districts by eliminating all capital outlay state aid payments and prorating supplemental general state aid payments. This court later affirmed these equity rulings and remanded to the panel for their enforcement. *Gannon*, 298 Kan. at 1181, 1188, 1198. On remand, the panel considered action taken by the legislature during the 2014 and 2015 legislative sessions and ultimately concluded the State had not cured these failures to meet Article 6's equity requirement.

Also in January 2013, the panel held the State failed to meet the adequacy requirement contained in Article 6 by underfunding public education between fiscal years 2009 and 2012. Instead of addressing the merits of this ruling, we remanded for the panel to apply our newly adopted test to determine whether the State had met its constitutional duty to provide adequacy in public education. *Gannon*, 298 Kan. at 1171-72, 1199 (adopting standards set forth in *Rose v. Council for Better Educ., Inc.*, 790 S.W.2d 186 [Ky. 1989] and then-codified at K.S.A. 2013 Supp. 72-1127). On remand, the panel ultimately held the State failed to comply with Article 6's adequacy requirement.

The State now appeals from the panel's orders on remand dated December 30, 2014; March 11, 2015; and June 26, 2015, and all other orders, rulings, and decisions adverse to it. Kansas State Treasurer Ron Estes and Secretary of Administration Jim Clark each appeal from the panel's June 26, 2015, order.

Although the equity and adequacy issues "do not exist in isolation from each other," they are currently in different stages of resolution. See Order dated March 5, 2015 (citing *Gannon*, 298 Kan. at 1199). And we have previously recognized the need for an expedited decision on the equity portion of this case. See Order dated June 30, 2015. Accordingly, the equity and adequacy issues shall be briefed and argued separately.

The briefing schedule stay ordered by this court on March 5, 2015, is lifted. The parties shall submit their briefs and make their oral arguments in accordance with the following schedule:

#### *Equity Portion of the Appeal*

The parties shall first address issues related to whether the State has cured the inequities initially found by the panel and affirmed by this court in *Gannon*. Given the

acknowledged need to expedite the equity portion of this appeal, we order the parties to concurrently brief their arguments:

- Each party shall file its first brief by 5:00 p.m. on Wednesday, September 2, 2015. Each brief shall be limited to 60 pages excluding the cover, table of contents, appendix, and certificate of service.
- Each party shall file its response brief by 5:00 p.m. on Friday, October 2, 2015. Each brief shall be limited to 50 pages excluding the cover, table of contents, appendix, and certificate of service.
- These deadlines and limits are firm. Motions for extension of time to file briefs or to extend page limits will be denied.
- Oral argument is scheduled for Friday, November 6, 2015, at 9:00 a.m. in the Supreme Court Courtroom. Appellants are granted a total of 60 minutes for oral argument and will argue first, deciding among themselves how to split their time. Appellants may choose to reserve a portion of time not to exceed 15 minutes for rebuttal. Appellees are granted 60 minutes for oral argument and will argue after Appellants conclude their main argument.
- This oral argument setting is firm. Motions to change the date and time will be denied.

### *Adequacy Portion of the Appeal*

The parties shall next address issues related to whether the State has met the adequacy requirement in Article 6 under the test we adopted in *Gannon*. Any remaining

miscellaneous issues may also be raised at this time. The adequacy portion of the appeal will proceed without concurrent briefing:

- Appellants' briefs are due by 5:00 p.m. on Monday, November 23, 2015. Each appellant's brief shall be limited to 100 pages excluding the cover, table of contents, appendix, and certificate of service.
- Appellees' response brief is due by 5:00 p.m. on Tuesday, January 12, 2016. The response brief shall be limited to 100 pages excluding the cover, table of contents, appendix, and certificate of service.
- Appellants may file reply briefs by 5:00 p.m. on Wednesday, January 27, 2016. Each appellant's reply brief shall be limited to 25 pages excluding the cover, table of contents, appendix, and certificate of service.
- These deadlines and limits are firm. Motions for extension of time to file briefs or to extend page limits will be denied.
- Oral argument will be held in the spring of 2016. A later order of this court will establish the exact date and amount of time allotted for oral argument.

IT IS SO ORDERED this 24th day of July 2015.

A handwritten signature in black ink, appearing to read "Lawton R. Nuss", written over a horizontal line.

Lawton R. Nuss,  
Chief Justice