

IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN THE MATTER OF ROMAN C. BENAVENTE, BOARD
OF EDUCATION CHAIRMAN,

and

AMBROSE M. BENNETT, BOARD OF EDUCATION
TEACHER REPRESENTATIVE,

Petitioners.

SUPREME COURT NO. 2008-SCC-0002-CQU

Cite as: 2008 MP 4

Decided April 1, 2008

Roman C. Benavente, Board of Education chairman, and Ambrose M. Bennett, Board of Education teacher representative, Pro Se.

BEFORE: MIGUEL S. DEMAPAN, Chief Justice; ALEXANDRO C. CASTRO, Associate Justice;
JOHN A. MANGLONA, Associate Justice

DEMAPAN, C.J.:

¶ 1 Petitioners Roman C. Benavente and Ambrose M. Bennett petition this Court to answer legal questions regarding the constitutional process for selecting a Board of Education teacher representative. Because petitioners fail to satisfy the constitutional prerequisites for certifying legal questions to this Court, their petition is DENIED.

I

¶ 2 From January 2004 to January 2008, petitioners were members of the Board of Education. Benavente served as the board's chairman and Bennett served as the board's Public School System ("PSS") teacher representative.¹ Prior to the expiration of their terms of office, petitioners sought a suitable replacement for Bennett in hopes of alleviating long-standing confusion surrounding the proper procedure for selecting the Board of Education's teacher representative. Therefore, petitioners requested that Governor Benigno R. Fitial appoint an acting teacher representative at the expiration of Bennett's term of office. According to petitioners, however, Governor Fitial refused to appoint a teacher representative until the Board of Education recommended an individual to fill the position.

¶ 3 On January 11, 2008, three days before their terms of office expired, petitioners submitted seven questions to this Court regarding the proper procedure for selecting a teacher representative to the Board of Education.² The Commonwealth Constitution requires that the teacher representative be selected by "an exclusive bargaining representative of the teachers within the Department of Education." NMI Const. art. XV, § 1(c).³ According to petitioners,

¹ Benavente was elected at-large and Bennett was appointed by former Governor Juan N. Babauta.

² Petitioners request that this Court answer the following questions: (1) "What qualifies a group of [t]eachers to be considered the 'exclusive bargaining representative' of teachers within PSS?" (2) "In the absence of a [n]on-[p]rofit [o]rganization with a majority of teachers as members or a [u]nion, will an exclusive bargaining group of teachers that have been selected by teachers at the school level to represent teachers at each school collectively fulfill the [c]onstitutional requirement as a collective (a collective of 20 [t]eacher [r]ep[resentives] from each school)?" (3) "Is the Board of Education 'required to bargain' with the [t]eacher [r]ep[resentative]?" (4) "Will an 'administrator' have a 'conflict of interest' representing teachers as the Board of Education [t]eacher [r]ep[resentative]?" (5) "What is the Governor's and/or Board of Education's role in the selection process in the absence of a recognized exclusive bargaining representative of teachers within the Public School System?" (6) "Who is responsible for conducting the selection process in the absence of an exclusive bargaining representative of teachers?" (7) "Can the Election Commission be required to conduct an election for the exclusive bargaining representative of teachers within the Public School System?"

³ The Commonwealth Constitution provides:

however, no teacher group has ever been formally recognized as the exclusive bargaining representative of PSS teachers. As a result, petitioners maintain that the teacher representative selection process has varied under different gubernatorial administrations. They claim that former Governor Pedro P. Tenorio appointed a teacher representative based on an election by a PSS teacher group “that did not represent the majority of teachers.” *Petition for Review of Certified Legal Questions* at 2. Petitioners further claim that former Governor Juan N. Babauta appointed a teacher representative that PSS teachers later ratified via election. *Id.* Currently, petitioners state that Governor Fitial refuses to appoint a teacher representative until the Board of Education recommends a teacher to fill the position.

¶ 4 Petitioners claim that the confusion surrounding the selection process created a great deal of controversy among PSS teachers. On the one hand, petitioners claim that the teacher group that elected a PSS teacher representative under Governor Tenorio believes it should select the next teacher representative. On the other hand, petitioners claim that the majority of PSS teachers do not support or recognize this teacher group and are waiting for Governor Fitial to appoint a teacher representative. Petitioners therefore request that this Court clarify the proper procedure for selecting a teacher representative to the Board of Education.

II

¶ 5 Before this Court reviews certified legal questions, the Commonwealth Constitution⁴ mandates that four prerequisites are satisfied: (1) A dispute exists between or among elected or appointed Commonwealth officials; (2) the dispute implicates the constitutional or statutory powers or responsibilities of these officials; (3) the parties to the dispute set forth the stipulated facts upon which the issue arises; and (4) the officials submit the legal questions arising from their dispute to this Court. NMI Const. art. IV, § 11. Only if these four prerequisites are satisfied

The board of education shall have five members The governor shall appoint three nonvoting ex-officio members to the board of education: one member shall be a student attending a Public School; one member shall be a representative of non Public Schools; and one member selected by an exclusive bargaining representative of the teachers within the Department of Education.

NMI Const. art. XV, § 1(c).

⁴ Section 11 of Article IV of the Commonwealth Constitution provides:

Whenever a dispute arises between or among Commonwealth officials who are elected by the people or appointed by the governor regarding the exercise of their powers or responsibilities under this constitution or any statute, the parties to the dispute may certify to the Supreme Court the legal question raised, setting forth the stipulated facts upon which the dispute arises. The Supreme Court may deny the request to rule on the certified legal question. If the request is accepted, then the ruling of the Supreme Court shall be binding upon the parties before the court.

NMI Const. art. IV, § 11.

may we review the merits of a certified legal question. *Id.* However, even if a petitioner satisfies all four prerequisites, our review is discretionary. *Id.* When we do review certified legal questions, the Commonwealth Constitution states that our ruling “shall be binding upon the parties before the court.” *Id.* Therefore, before addressing the merits of petitioners’ questions, we must determine whether petitioners satisfy the four constitutional prerequisites.

Dispute Between Commonwealth Officials

¶ 6 The first constitutional prerequisite for certifying legal questions to this Court is the existence of a dispute between Commonwealth officials. *Id.* The Constitution does not define the term “dispute.” However, a basic principle of constitutional construction is that language must be given its plain meaning. *Camacho v. Northern Marianas Ret. Fund*, 1 NMI 362, 368 (1990). “We will apply the plain, commonly understood meaning of constitutional language ‘unless there is evidence that a contrary meaning was intended.’” *Id.* (quoting *Pangelinan v. CNMI*, 2 CR 1148, 1161 (Dist. Ct. App. Div. 1987)). A dispute is often characterized as a “conflict or controversy,” or “an assertion of a right, claim, or demand on one side, met by contrary claims or allegations on the other.” *See, e.g., Krumme v. WestPoint Stevens Inc.*, 238 F.3d 133, 140 (2d Cir. 2000) (quoting *Black’s Law Dictionary* 472 (6th ed. 1990)). It is also described as “strife by opposing argument or expression of opposing views or claims.” *Id.* (quoting *Webster’s Third New International Dictionary* 655 (3d ed. 1993)). The word connotes the existence of at least two adversarial parties espousing contrary positions on a particular issue.

¶ 7 Petitioners do not satisfy the dispute requirement as set forth in the Commonwealth Constitution because there is no conflict or demonstrable disagreement between petitioners, who are the only parties petitioning this Court. In requesting that this Court review their questions, petitioners fail to present any facts indicating that they are at odds with one another. They do not reference a single issue or instance where they argue contrary positions. There are no facts demonstrating that petitioners disagree as to the appropriate process for selecting a teacher representative, nor are there any facts indicating that petitioners hold opposing views relevant to their certified questions.

¶ 8 While petitioners fail to demonstrate the existence of a dispute between themselves, they do allege the existence of a potential dispute between at least three other parties who are not petitioning this Court. First, petitioners claim that the previous teacher group that elected a teacher representative under Governor Tenorio believes it should select the teacher representative. Second, petitioners claim that a majority of PSS teachers believe Governor Fitial should appoint the teacher representative. Third, petitioners claim that Governor Fitial believes the Board of Education should recommend who should fill the teacher representative position. Petitioners,

however, fail to demonstrate that they are engaged in a dispute with any of these parties. In determining whether the dispute requirement is satisfied, our primary consideration is whether the parties petitioning the Court are engaged in a dispute with each other. We cannot adequately ascertain the existence of a dispute unless at least two adversarial parties to the dispute properly petition the Court's assistance. However, the only parties requesting that this Court clarify the constitutional process for selecting a teacher representative are petitioners, who are clearly not in a dispute with each other. None of the other parties mentioned by petitioners joined with petitioners in submitting questions to the Court. As such, we are unable to determine if these various parties are actually involved in the alleged dispute and whether petitioners accurately conveyed the respective positions of these parties. Thus, petitioners do not meet the dispute requirement set forth in the Commonwealth Constitution.

¶ 9 Additionally, even if the previous teacher group or the PSS teachers were parties to the petition for review, and even if they were engaged in a dispute with petitioners, petitioners still fail to demonstrate that the dispute is “between or among Commonwealth officials.” NMI Const. art. IV, § 11. The first prerequisite for submitting a certified legal question not only requires a dispute, but a dispute “between or among Commonwealth officials who are elected by the people or appointed by the governor.” *Id.* At the time petitioners requested this Court to clarify the teacher representative selection process, Benavente was the Board of Education's chairman and Bennett was the Board of Education's teacher representative. Thus, petitioners qualified as Commonwealth officials when they filed their petition, as Benavente was elected chairman in an at-large election and Bennett was appointed teacher representative by Governor Babauta. However, the Constitution mandates that the dispute must be “*between or among* Commonwealth officials,” indicating that at least one Commonwealth official must be involved on both sides of a dispute. *Id.* (emphasis added). However, neither the previous teacher group nor the PSS teachers are Commonwealth officials, as they were not elected by the people or appointed by a governor. Thus, even if petitioners were engaged in a dispute with either the previous teacher group or the PSS teachers, petitioners fail to demonstrate that the dispute is “between or among Commonwealth officials.” *Id.*

Dispute Implicating Constitutional or Statutory Powers or Responsibilities

¶ 10 The second constitutional prerequisite for certifying questions to this Court is the existence of a dispute between Commonwealth officials that implicates their constitutional or statutory “powers or responsibilities.” NMI Const. art. IV, § 11. In submitting their legal questions, Benavente, as chairman of the Board of Education, and Bennett, as the teacher representative of the Board of Education, request that this Court clarify the procedure for

selecting a new teacher representative. However, the Commonwealth Constitution does not include either the Board of Education's chairman or teacher representative in the selection process for the teacher representative position. Rather, the Constitution states that the teacher representative must be selected by "an exclusive bargaining representative of the teachers within the Department of Education." NMI Const. art. XV, § 1(c). Under the Constitution, petitioners do not have the power to select a new teacher representative, as that power is vested in the exclusive bargaining representative of the PSS teachers.⁵ Additionally, there is no evidence indicating that petitioners are the designated exclusive bargaining representatives for the PSS teachers or that petitioners have been delegated the powers and responsibilities of the exclusive bargaining representative. In fact, petitioners do not even claim to have the power or responsibility to select a new teacher representative. Petitioners, therefore, fail to demonstrate that they have any powers or responsibilities related to the selection of the teacher representative position. Thus, petitioners fail to satisfy the second prerequisite for submitting legal questions to this Court.

Stipulated Facts

¶ 11

The third constitutional prerequisite for certifying questions is that parties to a dispute must set forth the "stipulated facts upon which the dispute arises." NMI Const. art. IV, § 11; *see, e.g., Manglona v. Aldan*, 1998 MP 5 (denying a petition for certification of a legal question because the petitioners failed to set forth any stipulated facts surrounding the underlying dispute). While petitioners allege a variety of facts in submitting their legal questions to this Court, they produce no evidence indicating that those facts are stipulated to by anyone other than themselves. As stated above, petitioners mention at least three parties that may be engaged in a dispute with each other. However, none of these parties joined with petitioners in submitting legal questions to this Court. This is problematic because stipulated facts comprise an agreement between opposing parties as to relevant factual considerations. *See Tequila Centinela, S.A. de C.V. v. Bacardi & Co., Ltd.*, 242 F.R.D. 1, 4 (D.D.C. 2007) (quoting *Black's Law Dictionary* 1427 (7th ed. 1999)); *Perpetual Fin. Corp. v. United States*, 61 Fed. Cl. 126, 132 n.8 (2004) (stating that stipulations are created through contract or through an agreement between opposing parties). Benavente and Bennett are not opposing parties. Rather, they are on the same side of an alleged dispute and their interests are aligned. Petitioners, therefore, cannot stipulate to their own set of facts, as they are not opposing parties. In order to submit "stipulated facts upon which the dispute

⁵ The Commonwealth Constitution provides that the governor must appoint the teacher representative selected by the exclusive bargaining representative of the PSS teachers. NMI Const. art. XV, § 1(c).

arises,” petitioners must submit facts that are agreed to by the party or parties with whom they have a dispute. NMI Const. art. IV, § 11. Having failed to do so, petitioners fail to satisfy the third constitutional prerequisite for certifying a legal question.

Legal Questions Arising From Dispute

¶ 12 The final constitutional prerequisite is that the relevant parties must submit a legal question arising from their dispute to the Court. NMI Const. art. IV, § 11. Petitioners submitted a number of questions for this Court’s consideration. However, because petitioners failed to satisfy the first three constitutional prerequisites for certifying legal questions to this Court, we need not determine whether petitioners’ questions satisfy this final prerequisite.

III

¶ 13 For the foregoing reasons, we hold that petitioners failed to satisfy the constitutional prerequisites for submitting certified legal questions to this Court. Accordingly, their petition to clarify the process for selecting a teacher representative to the Board of Education is DENIED.

Concurring:
Castro, Manglona, JJ.