

No. 20-1603

In the Supreme Court of the United States

SUSAN BENNETT,

Petitioner,

v.

AMERICAN FEDERATION OF STATE, COUNTY, AND
MUNICIPAL EMPLOYEES, COUNCIL 31, AFL-CIO, ET AL.

Respondents.

**On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Seventh Circuit**

**BRIEF IN OPPOSITION
FOR STATE RESPONDENTS**

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STATEMENT

Petitioner Susan Bennett filed a two-count complaint against American Federation of State, County, and Municipal Employees, Council 31, and AFSCME Local 672 (“union respondents”); the Board of Education of Moline-Coal Valley School District No. 40 (“school district”); and Illinois Attorney General Kwame Raoul and the members of the Illinois Educational Labor Relations Board (“state respondents”). Dist. Ct. Doc. 1. Petitioner brought Count I against union respondents and the school district only, alleging that they violated her First Amendment rights by collecting union dues without her affirmative consent. *Id.* at 7-9. She brought Count II against union respondents and state respondents, alleging that portions of the Illinois Educational Labor Relations Act, which establishes a system of exclusive representation to regulate labor relations between public-sector educational employers and employees, see 115 ILCS 5/1 *et seq.*, were unconstitutional. *Id.* at 9-10.

State respondents filed a motion to dismiss Count II. Dist. Ct. Doc. 14. Union respondents and the school district filed a joint motion for summary judgment on Counts I and II. Dist. Ct. Doc. 30. The district court granted both motions and dismissed the action with prejudice. Pet. App. 25-49.

The Seventh Circuit affirmed the judgment in favor of union respondents and the school district on Count I, holding that these respondents did not violate the First Amendment by collecting union dues pursuant to petitioner’s signed union membership agreement. *Id.* at 9-16. It also affirmed the judgment in favor of all defendants on Count II, concluding that the challenged

statutory provisions were constitutional under *Minnesota State Board for Community Colleges v. Knight*, 465 U.S. 271 (1984), and subsequent precedent. *Id.* at 16-22.

ARGUMENT

In her petition for a writ of certiorari, petitioner asks this Court to review only the part of the Seventh Circuit's decision addressing Count I, which petitioner brought against union respondents and the school district but not state respondents. Petitioner, in fact, twice confirms that she is not seeking review of the part of the decision regarding Count II, which upheld the constitutionality of the challenged portions of the Illinois Educational Labor Relations Act, 115 ILCS 5/1 *et seq.* See Pet. ii n.1 ("Petitioner does not appeal Count II to this Court."); *id.* at 7 n.2 ("Plaintiff has chosen not to appeal the dismissal of Count II challenging exclusive representation to this Court."). Petitioner has thus abandoned the claim she brought in Count II, the only one against state respondents, and that claim therefore provides no basis for granting certiorari.

Because petitioner is not seeking review of the Seventh Circuit's disposition of her only claim against state respondents, the petition for a writ of certiorari should be denied as to them.

CONCLUSION

The petition for a writ of certiorari should be denied as to state respondents.

Respectfully submitted,

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