*1027860503*

**IN THE DISTRICT COURT OF OKLAHOMA COUNTY**
**STATE OF OKLAHOMA**

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

DEC 11 2014

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| INDEPENDENT SCHOOL DISTRICT NO. I-89 OF OKLAHOMA COUNTY, OKLAHOMA a/k/a OKLAHOMA CITY PUBLIC SCHOOLS, | ) | |
| Plaintiff, | ) | |
| v. | ) | Case No. CV-2014-2235 |
| OKLAHOMA SECONDARY SCHOOL ACTIVITIES ASSOCIATION, | ) | |
| Defendant. | ) | |

**ORDER**

Before this Court is *Plaintiff's Petition and Application for Temporary Restraining Order and/or Temporary Injunction.* Plaintiff alleges that the denial of its appeal for replay of the November 28, 2014 football quarterfinal playoff game was erroneous, and that Defendant's interpretation and application of its rules were not only unreasonable, but arbitrary and without basis. Plaintiff seeks an injunction ordering the restoration and replaying of the last one minute and four seconds of the quarterfinal playoff game, or in the alternative, that the game be replayed in its entirety.

In Oklahoma, to obtain a temporary injunction, Plaintiff must show: (1) a substantial likelihood of success on the merits; (2) irreparable harm to the movant if the injunction is denied; (3) that the threatened injury outweighs the harm that the temporary injunction may cause the opposing party; and (4) the injunction, if issued, will not adversely affect the public interest. *Tulsa Order of Police Lodge No. 93 v. City of Tulsa,* 2001 OK CIV APP 153, 39 P.3d 152 (cert.den.2001). The need for an injunction must be shown by clear and convincing evidence, and the nature of the injury must not be speculative in nature. *House of Realty v. City of Midwest City,*

2004 OK 97, 109 P.3d 314, citing *Sharp v. 251st Street Landfill, Inc.*, 1996 OK 109, 925 P.2d 546, 549. Weighing these factors, there is neither clear nor convincing evidence supporting the granting of injunctive relief.

The evidence does not support Plaintiff's likelihood of success on the merits of its case. The law requires the existence of a harm that is tied to an underlying right or protected property interest. No such right or interest has been identified by Plaintiff; instead, Plaintiff relies exclusively on policies it believes Defendant has either violated or ignored. Reliance on these policies, however, is misplaced. Indeed, the evidence supports that the policies and the exercise of the same are discretionary such that Defendant may elect to intervene or simply remain silent as it has elected to do in the present matter. Mindful of both the breadth of Defendant's discretion in interpreting and applying its policies and the absence of violation or disregard of any mandate, it naturally follows, and the evidence supports, that Plaintiff has neither cause of action nor an irreparable harm as defined or required by law. Accordingly, Plaintiff's pursuit of injunctive relief is therefore foreclosed and must be denied.

Further supporting the denial of injunctive relief are various public policy concerns. What transpired during and to some degree after the disputed quarterfinal could be considered by many as a tragedy. More tragic, however, would be for this Court to assert itself in this matter. While mindful of the frustrations of the young athletes who feel deprived by the inaction of Defendant, it borders on the unreasonable, and in some respects extends far beyond the purview of the judiciary, to think this Court more equipped or better qualified than Defendant to decide the outcome or any portion of a high school football game. Courts ought not meddle in these activities or others, especially when the parties have agreed to be bound by and have availed themselves to the governance of these activities associations.

This is not to say, however, that Courts must always defer to these associations or that the deference is without limitation. There are certainly rare and extraordinary instances where a Court must intervene to safeguard rights and to ensure a level playing field. This, however, is not one of those instances. There is neither statute nor case law allowing this Court discretion to order the replaying of a high school football game.

Even if there were such a precedent affording judicial discretion to order the requested relief, this Court would decline the exercise and would dismiss the matter *ex facie*. Though a seemingly harmless and benign request rooted in equity, it is impossible to ensure that the replaying of any portion of the quarterfinal would be fair to all involved. There is simply no way to fully and completely replicate the events and conditions of the disputed quarterfinal in such a way that would alleviate any and all anxiety or question of fairness. Unfortunately, whether in terms of the weather or field conditions, player fatigue, the actions of the coaches or referees, etc., on the day of the quarterfinal, there is no best way to right this wrong without creating even greater uncertainty or inviting further error. Undoubtedly, the pursuit of further judicial action would result in the frustration of the world of athletics as we know it. This slippery slope of solving athletic contests in court instead of on campus will inevitably usher in a new era of robed referees and meritless litigation due to disagreement with or disdain for decisions of gaming officials– an unintended consequence which hurts both the court system and the citizens it is designed to protect.

In accordance with the foregoing, Plaintiff's request for Temporary Injunction is DENIED, and the Temporary Restraining Order entered on December 4, 2014 is hereby DISSOLVED.

IT IS SO ORDERED this 11th day of December, 2014.

HON. BERNARD M. JONES
DISTRICT JUDGE

## CERTIFICATE OF SERVICE

This is to certify that on the 11th day of December, 2014, a true and correct copy of the above and foregoing instrument was emailed to:

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