



STATE OF OKLAHOMA }
CLEVELAND COUNTY } S.S.
FILED

DEC 12 2022

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

PIKE OFF OTA, INC., et al.,)
Plaintiff(s),)
v.)
OKLAHOMA TURNPIKE AUTHORITY,)
Defendant.)

*In the office of the
Court Clerk MARILYN WILLIAMS*

Case No. CV-2022-1692

COURT MINUTE – DECISION-Defendant’s Motion to Dismiss

NOW on this 12th day of December, 2022, this matter comes on for Decision on Defendant’s Motion to Dismiss. After hearing, reviewing the court file and relevant authority the Court **FINDS** as follows:

1. The Plaintiffs filed their First Amended Petition for Declaratory, Injunctive, and Mandamus Relief on May 23, 2022. The Plaintiffs in their First Amended Petition request that the Defendant Oklahoma Turnpike Authority (OTA) be prohibited from funding and building the proposed South Extension, Outer Loop: East-West Connector and Outer Loop: Tri-City Connector because the proposed routes are not authorized by the Oklahoma Turnpike Enabling Act and/or are in violation of the Act.
2. Defendant OTA filed a Motion to Dismiss and Brief in Support on June 13, 2022. Plaintiffs filed their response on July 13, 2022.
3. On August 10, 2022, OTA filed its Application for the Assumption of Original Jurisdiction and Petition for Validation in the Oklahoma Supreme Court **Case No. O-120619**. Plaintiffs in this case filed a Protest in the Supreme Court case on September 9, 2022. On October 10, 2022 the Oklahoma Supreme Court entered an order assuming original jurisdiction of the OTA’s request for approval of Oklahoma Turnpike System Second Senior Lien Revenue Bonds, Series 2022.
4. OTA argues that the case should be dismissed because the Oklahoma Supreme Court has exclusive, original jurisdiction of the issues in this district court case.
5. It is correct that The Oklahoma Supreme Court has exclusive original jurisdiction to hear the OTA’s applications to approve bonds to be issued under the act. **69 O.S. § 1718**. The Act provides that the OTA is authorized in its discretion to file an application with the Supreme Court of Oklahoma for the approval of any bonds to be issued hereunder, and exclusive original jurisdiction is hereby conferred upon the Supreme


Court to hear and determine each such application. The Oklahoma Supreme Court has held that it is vested with exclusive, statutory original jurisdiction to hear and determine applications for bond approval from the Authority. **69 O.S. § 1718. Matter of Oklahoma Tpk. Auth., 2016 OK 124, ¶ 2, 389 P.3d 318, 319.**

6. The claims of the Plaintiffs in this case are virtually the same as those set forth in their Protest filed in the Supreme Court in No. **120619**. The Oklahoma Supreme Court was faced with a similar situation in **Oklahoma Tpk. Auth. v. Dist. Court of Lincoln Cnty., 1950 OK 147, 203 Okla. 330, 332, 222 P.2d 514**. In that case the OTA argued that “the continuance of the present action in the district court, in which the same questions are presented, will result in a conflict of jurisdiction between the court and this court, since it will necessitate and presenting of the same questions to this court in two actions or proceedings”. In holding it had exclusive jurisdiction in the matter, the Supreme Court stated: “We are inclined to agree with this contention. Obviously in approving the bonds this court must consider and pass upon their validity, which necessitates a consideration of the constitutionality of the acts under which they will operate, and the sufficiency of the authority conferred upon them by said acts to construct and operate the turnpike or toll road, and this consideration would involve the same questions now being raised by the plaintiffs in the action in the district court as to the constitutionality of the acts and the sufficiency of the statutory authority for the construction and operation of the turnpike”. **Oklahoma Tpk. Auth. v. Dist. Court of Lincoln Cnty., 1950 OK 147, 203 Okla. 330, 332, 222 P.2d 514, 517**
7. For the reasons set forth above, this Court finds that in this particular case, the Oklahoma Supreme Court has original and exclusive jurisdiction. Therefore, the Defendant’s Motion to Dismiss is **Granted**.
8. Counsel for the Defendant is directed to submit a journal entry within 10 days of the filing of this decision.

IT IS SO ORDERED.

Dated: 12/12/2022

Signed by Judge Olsen electronically



Timothy L. Olsen
District Judge

CERTIFICATE OF MAILING

The undersigned hereby certifies that a true and correct copy of the above and foregoing instrument was e-mailed and/or mailed on the 12th day of December, 2022, to the following, to-wit:

Cheek & Falcone, PLLC Robert Norman 6301 Waterford Blvd., Ste 320 OKC, OK 73118	Ryan Whaley Grant Lucky Phillip Whaley 400 N. Walnut Ave. OKC, OK 73104
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