

Dick BARCLAY, Director,
Arkansas Department of Finance & Administration *v.*
FARM CREDIT SERVICES, *et al.*

99-1432

5 S.W.3d 473

Supreme Court of Arkansas
Opinion delivered December 10, 1999

MOTIONS — MOTION FOR EXPEDITED CONSIDERATION & APPLICATION FOR TEMPORARY RELIEF GRANTED. — The supreme court granted petitioner's motion to expedite consideration of petitioner's petition for writ of certiorari; pending its expedited review, the supreme court stayed the chancellor's writ of mandamus and order denying reconsideration in order to permit petitioner to file a petition for writ of certiorari in the United States Supreme Court by a stated deadline.

Motion for Expedited Consideration and Application for Temporary Relief granted; Briefing ordered.

Beth B. Carson, Chief Counsel, Revenue Legal Counsel;
Martha Hunt, Revenue Legal Counsel, for petitioner.

No response.

PER CURIAM. On July 1, 1999, we affirmed the chancery court's summary judgment ruling that the respondents, four Production Credit Associations, were entitled to immunity from state sales and income taxation by virtue of their status as "federal instrumentalities." *State v. Farm Credit Servs.*, 338 Ark. 322, 994 S.W.2d 453 (1999). On September 9, 1999, we granted the State's motion for stay of the mandate in that case, in order to allow the State to file a petition for writ of certiorari in the Supreme Court of the United States. Ark. S. Ct. R. 5-3(c).

On November 23, 1999, the respondents filed a petition for writ of mandamus in the Pulaski County Chancery Court, Second Division, which sought to enjoin the Department of Finance and Administration (DFA) and its attorneys from filing a petition for writ of certiorari in the Supreme Court. The respondents alleged in the petition that the DFA's actions violated Ark. Code Ann. Sec. 25-16-703(a) (Repl. 1996), which provides:

The Attorney General shall maintain and defend the interests of the state in matters before the United States Supreme Court and all other federal courts and shall be the legal representative of all state officers, boards, and commissions in all litigation where the interests of the state are involved.

On November 24, 1999, the chancellor issued a verbal order granting the respondents' request for writ of mandamus to prohibit DFA and its attorneys from representing the State of Arkansas before the Supreme Court. Following the second division chancellor's recusal on December 3, 1999, the case was transferred to the Sixth Division of Pulaski County Chancery Court. On that same day, DFA filed a motion for reconsideration and modification of the chancellor's verbal ruling. On December 8, 1999, the sixth division chancellor issued a writ of mandamus prohibiting DFA and its attorneys from taking any action on behalf of the State of Arkansas before the United States Supreme Court in *State v. Farm Credit Servs., supra*. The chancellor also denied DFA's motion for reconsideration and modification.

[1] DFA promptly filed a petition for writ of certiorari in this court on December 8, 1999, along with a motion for expedited consideration and an application for temporary relief. The motion to expedite consideration of this matter is granted. Pending our expedited review of DFA's petition for writ of certiorari in this matter, we stay the writ of mandamus and the order denying reconsideration entered by the chancellor on December 8, 1999, in order to permit DFA and its attorneys to file a petition for writ of certiorari in the Supreme Court by the December 13, 1999 deadline in *State v. Farm Credit Servs., supra*. The parties are ordered to brief the issues raised in DFA's petition for writ of certiorari, as well as the basis for the chancery court's jurisdiction to issue a writ of mandamus in this matter.