

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

September 30, 2024

Christopher M. Wolpert
Clerk of Court

MATTHEW S. LOMAX, Regional
Director of Region 27 of the National
Labor Relations Board, for and on behalf
of the National Labor Relations Board,

Petitioner - Appellant/Cross-
Appellee,

v.

LONGMONT UNITED HOSPITAL;
CENTURA HEALTH, as a single
employer,

Respondents - Appellees/Cross-
Appellants.

Nos. 24-1014 & 24-1032
(D.C. No. 1:23-CV-02297-NYW-KAS)
(D. Colo.)

ORDER AND JUDGMENT*

Before **TYMKOVICH, PHILLIPS, and CARSON**, Circuit Judges. **

These cross-appeals are before the court on the *Stipulated Motion of the National Labor Relations Board to Dismiss the Appeal and the Cross-Appeal as Moot with*

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

** Because this matter is being decided on a *Joint Motion to Remand for Resentencing* this panel has determined unanimously that oral argument would not materially assist in the determination of the appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Instructions to Vacate the Temporary Injunction, in which the parties: (1) advise the court that, on September 18, 2024, the Board issued its final Decision and Order on the underlying unfair-labor-practice complaint, *see Longmont United Hospital and Centura Health and National Nurses Organizing Committee/National Nurse United (NNOC/NNU*, Case No. 27-CA-291664, 373 NLRB No. 97, 2024 WL 4251335 (Sept. 18, 2024); (2) in light of the Board’s September 18, 2024 decision, request that the court dismiss as moot their respective appeals of the District of Colorado’s November 16, 2023 Memorandum Opinion and Order [ECF No. 40], granting in part and denying in part a petition for temporary injunction under § 10(j) of the National Labor Relations Act, 29 U.S.C. § 160(j); and (3) further request that the court remand the case to the district court with instructions to vacate the § 10(j) temporary injunction.

By its own terms, the § 10(j) injunction expired upon “the final disposition of the matters before the National Labor Relations Board in Case No. 29-CA-291664.” [*See* ECF No. 40 at 48].

Upon consideration, the court:

- A. Grants the stipulated motion to dismiss both the appeal and cross-appeal, with each party to bear its own costs;
- B. Vacates the oral argument scheduled for November 22, 2024 in Denver, Colorado and excuses all counsel scheduled to appear from attending;
- C. Remands the case to the district court with directions to vacate its November 16, 2023 Memorandum Opinion and Order [ECF No. 40] based

solely on the mootness of the appeals before this court, and to dismiss the Board's complaint [ECF No. 1] as moot; and

D. Directs the Clerk to issue the mandate forthwith.

Entered for the Court

A handwritten signature in black ink, appearing to read 'C. Wolpert', with a long horizontal flourish extending to the right.

CHRISTOPHER M. WOLPERT, Clerk