

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

City of Miami v. Emilio Tomas Gonzalez

No. 3D25-1398 (Fla. 3d DCA July 31, 2025) · No. 3D25-1398 · Decided July 31, 2025

SUMMARY

The Florida Third District Court of Appeal affirmed a final judgment declaring unconstitutional a City of Miami ordinance that moved municipal elections from odd-numbered to even-numbered years, effectively canceling the November 2025 election and extending certain officials’ terms. The court held that the ordinance effectively amended the City Charter and therefore required voter approval by referendum under the Miami-Dade County Home Rule Charter and the Florida Constitution. The court further concluded that the general-law statutes relied upon by the City were permissive and did not supersede the referendum requirement.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Gordo, J.; Emas, J.; Lobree, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	July 31, 2025
DOCKET	3D25-1398
DISPOSITION	affirmed
PROCEDURAL POSTURE	The City of Miami appealed a final judgment declaring its ordinance unconstitutional, denying the City's emergency motion to dismiss, and granting Emilio Tomas Gonzalez's motion for summary judgment.
STANDARD OF REVIEW	De novo review of final summary judgment, a ruling on a motion to dismiss for failure to state a cause of action, and questions of constitutional interpretation.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	City of Miami v. Emilio Tomas Gonzalez, Miami-Dade County

TOPICS

- home rule
- municipal law
- election law
- ordinances
- constitutional law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the City's ordinance effectively amended or repealed provisions of the City Charter establishing municipal election dates and term limits.
2. Whether Florida general-law statutes authorizing municipalities to change election dates permitted the City to enact the ordinance without complying with the City and Miami-Dade County Charters.
3. Whether the Florida Constitution's Miami-Dade County Home Rule Amendment made referendum the exclusive method for amending the City Charter.

HOLDINGS

1. An ordinance that changes the existing terms of a municipal charter is an amendment to that charter. Because the ordinance made it impossible to comply with the City Charter's election-date and term-limit provisions, it effectively amended or repealed those provisions.
2. The permissive general-law statutes relied upon by the City did not supersede the City's governing charters or the Florida Constitution. The statutes used the term "may" and did not require the City to change its election dates or extend terms in conflict with the charters.
3. The City may not enact an ordinance that effectively amends its Charter without submitting the issue to the electorate by referendum. The ordinance was unconstitutional because it violated the exclusive charter-amendment method established under the Miami-Dade County Home Rule Charter and authorized by the Florida Constitution.

KEY QUOTATIONS

"An ordinance that changes the existing terms of a charter is an amendment to that charter." (11)

"We answer the previously raised question in the negative and hold the City may not enact an ordinance which effectively amends its Charter without submission of the issue to the will and vote of its constituents by referendum, as required by both the City and the Miami-Dade County Charters." (26)

FACTUAL BACKGROUND

The City of Miami enacted an ordinance moving its general municipal election from November 4, 2025, to November 3, 2026, and moving subsequent elections to even-numbered years. The ordinance conflicted with the City Charter's requirement that general municipal elections occur in odd-numbered years and its limits on elected officials' terms. The ordinance was enacted without submission to the electorate by referendum, although the Miami-Dade County Home Rule Charter requires referendum approval for municipal charter amendments.

PROCEDURAL HISTORY

Gonzalez filed a declaratory action challenging a City ordinance that moved Miami's general municipal election from November 2025 to November 2026 and thereby extended certain terms of office. The circuit court denied

the City's emergency motion to dismiss, granted Gonzalez's motion for summary judgment, and entered final judgment declaring the ordinance unconstitutional. The Third District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Gray v. Golden, 89 So. 2d 785 (Fla. 1956)
- Metropolitan Dade County v. City of Miami, 396 So. 2d 144 (Fla. 1980)
- Ibarra v. Ross Dress for Less, Inc., 350 So. 3d 465, 467 (Fla. 3d DCA 2022)
- Orozco v. McCormick 105, LLC, 276 So. 3d 932, 935 (Fla. 3d DCA 2019)
- Lam v. Univision Communications, Inc., 329 So. 3d 190, 197 (Fla. 3d DCA 2021)
- Edward A. Schilling v. Maria Herrera, Schilling v. Herrera, 952 So. 2d 1231, 1234 (Fla. 2007)
- Telli v. Broward County, 94 So. 3d 504, 505 n.1 (Fla. 2012)
- Raffay v. Longwood House Condominium Ass'n, Inc., 389 So. 3d 589, 593 (Fla. 3d DCA 2023)
- State v. City of Weston, 316 So. 3d 398, 408 (Fla. 1st DCA 2021)
- Rosier v. State, 276 So. 3d 403, 406 (Fla. 2019)
- Jordan Chapel Freewill Baptist Church v. Dade County, 334 So. 2d 661, 664 (Fla. 3d DCA 1976)
- Poindexter v. Greenhow, 114 U.S. 269, 331 (1885)
- State v. Special Tax School District No. 5 of Dade County, 144 So. 356, 360 (Fla. 1932)
- The Florida Bar v. Trazenfeld, 833 So. 2d 734, 738 (Fla. 2002)
- Stein v. Darby, 134 So. 2d 232, 237 (Fla. 1961)
- Boca Center at Mil., LLC v. City of Boca Raton, 312 So. 3d 920, 923 (Fla. 4th DCA 2021)
- City of Miami Beach v. Fleetwood Hotel, Inc., 261 So. 2d 801, 803 (Fla. 1972)
- Bush v. Holmes, 886 So. 2d 340, 372 (Fla. 1st DCA 2004)
- Club on the Bay, Inc. v. City of Miami Beach, 439 So. 2d 325, 327 (Fla. 3d DCA 1983)
- Miami Shores Village v. Cowart, 108 So. 2d 468, 469, 471 (Fla. 1958)
- Dade County v. Dade County League of Municipalities, 104 So. 2d 512, 516 (Fla. 1958)
- Coastal Florida Police Benevolent Ass'n v. Williams, 838 So. 2d 543, 548 (Fla. 2003)
- Zingale v. Powell, 885 So. 2d 277, 282-83 (Fla. 2004)
- Planned Parenthood of Southwest and Central Florida v. State, 384 So. 3d 67, 77 (Fla. 2024)
- Conage v. United States, 346 So. 3d 594, 598 (Fla. 2022)
- Robinson v. Shell Oil Co., 519 U.S. 337, 341 (1997)
- Chase v. Cowart, 102 So. 2d 147, 152 (Fla. 1958)
- Dade County v. Young Democratic Club of Dade County, 104 So. 2d 636, 638 (Fla. 1958)
- Ramcharitar v. Derosins, 35 So. 3d 94, 98 (Fla. 3d DCA 2010)
- Rivers v. Roadway Express, Inc., 511 U.S. 298, 312-13 (1994)

- *Askew v. Game & Fresh Water Fish Commission*, 336 So. 2d 556, 560 (Fla. 1976)

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