

COURT OF APPEALS OF THE STATE OF GEORGIA

Brian Jackson v. City of Atlanta

A26A0754 · No. A26A0754 · Decided August 4, 2026

SUMMARY

The Georgia Court of Appeals held that the superior court erred by refusing to consider Brian Jackson’s constitutional challenges to the City of Atlanta’s tree ordinance during review of a Tree Conservation Commission decision. The court remanded the case for the superior court to address those constitutional challenges in the first instance.

CASE DETAILS

COURT	Court of Appeals of the State of Georgia
JURISDICTION	Georgia
DECIDED	August 4, 2026
DOCKET	A26A0754
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Jackson sought discretionary review of a superior court order affirming the Tree Conservation Commission's assessment of a cash recompense for the removal of trees. The Court of Appeals initially granted discretionary review, transferred the case to the Supreme Court of Georgia because constitutional challenges were raised, and received the case back after the Supreme Court determined that the superior court had not ruled on those challenges.
STANDARD OF REVIEW	Questions of law are reviewed de novo under OCGA § 5-3-5(a)(5).
PRECEDENTIAL VALUE	published
PARTIES	Brian Jackson v. City of Atlanta

TOPICS

- judicial review of agency action
- administrative law
- appellate procedure
- due process
- equal protection

PRACTICE AREAS

- administrative law
- appellate procedure
- constitutional law
- municipal law

QUESTIONS PRESENTED

1. Whether the superior court erred by refusing to consider Jackson's constitutional challenges to the City's Tree Protection Ordinance during review of the Tree Conservation Commission's decision.
2. Whether the case should be remanded for the superior court to consider those constitutional challenges in the first instance.

HOLDINGS

1. A superior court reviewing an administrative adjudication must consider constitutional challenges to the agency's rules or governing ordinance when those challenges are presented as questions of law for appellate review.
2. The case must be remanded to the superior court to consider Jackson's constitutional challenges to the City's Tree Protection Ordinance in the first instance.

KEY QUOTATIONS

“Given the foregoing, we hold that the superior court erred by refusing to consider Jackson’s constitutional challenges to the City’s tree ordinance.” (unpaginated)

“But under OCGA § 5-3-5(a)(5), “a reviewing court shall ... [r]eview questions of law de novo.””
(unpaginated)

FACTUAL BACKGROUND

Jackson sought permission twice from the City of Atlanta to remove trees on his property because his insurer required their removal. The Tree Conservation Commission denied both requests, but Jackson removed the trees anyway. The City assessed him \$20,230 for the illegal destruction of 12 trees, and the Commission upheld the assessment while conditionally reducing the fine if Jackson replanted six trees.

PROCEDURAL HISTORY

The Tree Conservation Commission denied Jackson's tree-removal permit requests and later assessed \$20,230 for the illegal destruction of 12 trees. The Commission upheld the assessment, conditionally reducing it by \$3,000 if Jackson replanted six trees. The superior court affirmed but declined to address Jackson's constitutional challenges, concluding that its review was limited to whether evidence supported the Commission's ruling. The Court of Appeals held that the superior court was required to consider the constitutional challenges and remanded for that purpose.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The superior court must consider Jackson's constitutional challenges to the City of Atlanta's Tree Protection Ordinance in the first instance.

CASES CITED

- Rouse v. Department of Natural Resources, 271 Ga. 726, 728, 524 S.E.2d 455 (1999)
- Buchan v. Hobby, 288 Ga. App. 478, 479–80, 654 S.E.2d 444 (2007)
- State Health Planning Agency v. Coastal Empire Rehabilitation Hosp., 261 Ga. 832, 412 S.E.2d 532 (1992)
- George v. Department of Natural Resources, 250 Ga. 491, 492, 299 S.E.2d 556 (1983)
- Alpha Land Partners, LLC v. City of Alpharetta, 379 Ga. App. 35, 38(3), 927 S.E.2d 588 (2026)
- Tussahaw Reserves v. Butts County, 323 Ga. 84, 88–89(2), 922 S.E.2d 363 (2025)

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