

SUPREME COURT OF MISSISSIPPI

Enlarging, Extending & Defining the Corporate Limits & Boundaries of Biloxi v. City of Biloxi

109 So. 3d 529 (Miss. 2013) · Decided March 21, 2013

SUMMARY

The Mississippi Supreme Court reviewed competing annexation petitions filed by Biloxi and D'Iberville involving substantially the same territory in Harrison County. The Court held that Biloxi lacked standing to assert third-party notice objections and had waived its personal-jurisdiction argument by failing to raise it in the trial court. It affirmed the chancellor's decision to award each city a reduced annexation area, finding the determination reasonable and supported by substantial evidence.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	King, Justice; Waller, C.J.; Dickinson, P.J.; Randolph, P.J.; Lamar, J.; Kitchens, J.; Chandler, J.; Coleman, J.; Pierce, J., not participating
JURISDICTION	Mississippi
DECIDED	March 21, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Consolidated competing municipal annexation petitions were decided by a chancery-court chancellor, who awarded each city a reduced portion of the proposed annexation area. Both cities appealed; Biloxi also raised for the first time on appeal a challenge to the chancery court's jurisdiction over D'Iberville's petition based on allegedly inadequate proof of publication.
STANDARD OF REVIEW	The reasonableness of an annexation is reviewed for manifest error. Reversal is warranted only if the chancellor applied an incorrect legal standard, was manifestly wrong, or made findings unsupported by substantial evidence. Jurisdictional questions are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	City of Biloxi, City of D'Iberville v. City of Biloxi, City of D'Iberville, Harrison County

TOPICS

municipal law ordinances personal jurisdiction standing waiver

PRACTICE AREAS

municipal law municipal annexation civil procedure appellate procedure

QUESTIONS PRESENTED

1. Whether Biloxi could challenge for the first time on appeal the adequacy of proof that D'Iberville had satisfied the statutory publication requirement.
2. Whether the publication-notice issue concerned personal jurisdiction or subject-matter jurisdiction.
3. Whether Biloxi had standing to assert the notice rights of third parties.
4. Whether Biloxi waived its jurisdictional objection by failing to raise it in the trial court and by failing to comply with the scheduling order.
5. Whether the chancellor manifestly erred in finding that the competing annexations, as reduced and divided between the cities, were reasonable under the totality of the circumstances.

HOLDINGS

1. Biloxi lacked standing to assert the notice rights of third-party objectors because Biloxi itself was properly served and had no personal jurisdiction defect.
2. Notice under the annexation statutes concerns personal jurisdiction, not subject-matter jurisdiction.
3. Biloxi waived its objection by failing to raise it in the trial court despite several years of participation and a scheduling order specifically requiring jurisdictional challenges to be filed by a stated deadline.
4. The chancellor did not manifestly err in finding that neither city reasonably could annex the entire proposed area and in awarding Biloxi and D'Iberville reduced, geographically adjacent areas.

KEY QUOTATIONS

"Notice under the annexation statutes is a matter of personal, not subject matter, jurisdiction, thus the failure to prove notice does not automatically mandate dismissal for want of jurisdiction, particularly under the facts of this case, where notice was properly provided." (539)

"Under the totality of the circumstances, the chancellor did not manifestly err in his determination, especially in light of the changing nature of growth and development on the Gulf Coast after the devastation and attendant challenges caused by Hurricane Katrina, and each city's new-found needs to accommodate such growth and development." (562)

FACTUAL BACKGROUND

Biloxi and D'Iberville sought to annex essentially the same approximately 11.2-square-mile area of Harrison County after their respective city councils adopted annexation ordinances. The area experienced changing growth patterns, development, infrastructure needs, and environmental constraints following Hurricane Katrina.

After considering the twelve annexation-reasonableness indicia, the chancellor found that neither city reasonably could annex the entire area and divided the territory between them, leaving a portion unincorporated.

PROCEDURAL HISTORY

Biloxi filed an annexation petition in 2007, followed by D'Iberville's competing petition concerning essentially the same Harrison County territory. The petitions were consolidated, tried over twenty-three days, and resolved by a 133-page chancery-court opinion awarding Biloxi the Biloxi Critical Area and D'Iberville the D'Iberville Annexation Area, approximately 2.5 square miles each. Both cities appealed, while Harrison County sought affirmance. The Mississippi Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- City of Jackson v. Byram Incorporators, 16 So. 3d 662, 682-92 (Miss. 2009)
- In re Enlargement and Extension of the Municipal Boundaries of the City of D'Iberville, 867 So. 2d 241, 248-59 (Miss. 2004)
- In re Enlargement and Extension of Municipal Boundaries of City of Clinton, 920 So. 2d 452, 455-56 (Miss. 2006)
- Myrick v. Incorporation of a Designated Area into a Municipal Corporation to Be Named Stringer, 336 So. 2d 209, 210 (Miss. 1976)
- Norwood v. Extension of Boundaries of City of Itta Bena, 788 So. 2d 747, 751 (Miss. 2001)
- In re Extension of Corporate Boundaries of the Town of Mantachie, 685 So. 2d 724, 726-27 (Miss. 1996)
- Extension of Boundaries of City of Tupelo v. City of Tupelo, 94 So. 3d 256, 265 (Miss. 2012)
- In re Enlargement, Extension of Municipal Boundaries of City of Horn Lake, 822 So. 2d 253 (Miss. 2002)
- Bowie v. Montfort Jones Memorial Hospital, 861 So. 2d 1037, 1042-43 (Miss. 2003)
- Guaranty National Insurance Co. v. Pittman, 501 So. 2d 377 (Miss. 1987)
- Jones v. Chandler, 592 So. 2d 966, 970 (Miss. 1991)
- City of Macon, 854 So. 2d 1029, 1036-37 (Miss. 2003)
- Extending, Enlarging and Defining Corporate Limits and Boundaries of City of Horn Lake v. Town of Walls, 57 So. 3d 1253, 1260 (Miss. 2011)
- Edwards v. Harrison County Board of Supervisors, 22 So. 3d 268, 276 (Miss. 2009)
- Esco v. Scott, 735 So. 2d 1002, 1006 (Miss. 1999)
- In re Extension of the Boundaries of the City of Meridian, 115 So. 2d 323, 328 (Miss. 1959)
- In re Extension of Boundaries of City of Brookhaven, 65 So. 2d 832, 833 (Miss. 1953)
- City of Jackson v. Town of Flowood, 331 So. 2d 909, 911 (Miss. 1976)

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