

SUPREME COURT OF GEORGIA

Gebrekidan v. City of Clarkston

298 Ga. 651 (2016) · No. S15A1442 · Decided March 21, 2016

SUMMARY

The Supreme Court of Georgia held that Georgia’s comprehensive statutory scheme regulating coin-operated amusement machines preempted a City of Clarkston ordinance prohibiting packaged-alcohol retailers from allowing such machines on their premises. The court concluded that the ordinance was impliedly preempted under the Georgia Constitution’s Uniformity Clause and was not authorized by general law under the Clause’s exception. The court reversed the defendant’s conviction and fine.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Nahmias, Justice; All Justices
JURISDICTION	Georgia
DECIDED	March 21, 2016
DOCKET	S15A1442
DISPOSITION	reversed
PROCEDURAL POSTURE	Discretionary appeal from the superior court's affirmance of Gebrekidan's municipal-court conviction and fine for violating a Clarkston ordinance regulating amusement machines at packaged-alcohol retailers.
STANDARD OF REVIEW	The court independently reviewed the legal question whether the municipal ordinance was preempted under the Uniformity Clause of the Georgia Constitution.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia
PARTIES	Aster Zeru Gebrekidan v. City of Clarkston

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QUESTIONS PRESENTED

1. Whether Georgia's comprehensive statutory scheme regulating coin-operated amusement machines and COAM businesses impliedly preempted Clarkston Code § 3-57 under the first part of the Uniformity Clause of the Georgia Constitution.
2. Whether the ordinance was nevertheless authorized by general law and therefore saved by the Uniformity Clause's exception for local police powers.

HOLDINGS

1. The State's comprehensive COAM Laws impliedly preempted Clarkston Code § 3-57 insofar as the ordinance regulated COAMs as defined by state law.
2. The ordinance was not saved from preemption because the City failed to show that a general law authorized it to prohibit licensed COAMs at packaged-alcohol retailers.

KEY QUOTATIONS

“The proper focus is on the subject and operation of the general and local laws.” (at 664)

“Thus, in enacting the comprehensive COAM Laws, the General Assembly considered their interaction with local alcohol regulations, but the legislature did not authorize local governments to flatly prohibit alcoholic beverage licensees from allowing COAMs on their premises or to penalize such businesses for doing so.” (at 669)

FACTUAL BACKGROUND

Gebrekidan operated a Clarkston convenience store selling packaged beer, malt beverages, and wine for off-premises consumption. She also operated coin-operated amusement machines pursuant to a State of Georgia license under the COAM Laws. Clarkston Code § 3-57 prohibited packaged-alcohol retailers from permitting any electronic or mechanical game machine or coin-operated amusement device on their premises, and Gebrekidan was convicted and fined after stipulating that she operated state-licensed COAMs at the store.

PROCEDURAL HISTORY

Clarkston cited Gebrekidan for operating coin-operated amusement machines at a convenience store that sold packaged alcohol. The Municipal Court of Clarkston denied her motion to dismiss, found her guilty after a stipulated bench trial, and imposed a \$250 fine. The Superior Court of DeKalb County affirmed on certiorari. The Supreme Court of Georgia granted discretionary review and reversed.

DISPOSITION

reversed

CASES CITED

- City of Buford v. Georgia Power Co., 276 Ga. 590, 590 (581 S.E.2d 16) (2003)
- Franklin County v. Fieldale Farms Corp., 270 Ga. 272, 273, 275-278 (507 S.E.2d 460) (1998)

- GeorgiaCarry.org, Inc. v. Coweta County, 288 Ga. App. 748, 748-749 (655 S.E.2d 346) (2007)
- Hortman v. Guy, 242 Ga. App. 174, 176 (529 S.E.2d 182) (2000)
- City of Atlanta v. S.W.A.N. Consulting & Sec. Servs., Inc., 274 Ga. 277, 277-279 (553 S.E.2d 594) (2001)
- Old South Duck Tours v. Mayor and Alderman of City of Savannah, 272 Ga. 869, 871 (535 S.E.2d 751) (2000)
- Pawnmart, Inc. v. Gwinnett County, 279 Ga. 19, 20 (608 S.E.2d 639) (2005)
- Hill v. Tschannen, 264 Ga. App. 288, 290-291 (590 S.E.2d 133) (2003)
- Willis v. City of Atlanta, 285 Ga. 775, 777 (684 S.E.2d 271) (2009)
- Rabun County v. Georgia Transmission Corp., 276 Ga. 81, 87 (575 S.E.2d 474) (2003)
- Grovenstein v. Effingham County, 262 Ga. 45, 46-47 (414 S.E.2d 207) (1992)
- Borders v. City of Atlanta, 298 Ga. 188, 192 (779 S.E.2d 279) (2015)
- Little v. City of Lawrenceville, 272 Ga. 340, 341 (528 S.E.2d 515) (2000)