

SUPREME COURT OF GEORGIA

Georgia State Licensing Board for Residential & General
Contractors v. Allen, 286 Ga. 811

692 S.E.2d 343 (2010) · No. No. S09A1831 · Decided March 25, 2010

SUMMARY

The Supreme Court of Georgia reviewed a venue challenge and a preliminary injunction concerning enforcement of Georgia's statewide licensing requirements for residential and general contractors. The court affirmed denial of the motion to dismiss or transfer venue, but reversed the preliminary injunction, holding that the alleged failure to provide notice did not justify injunctive relief and that the injunction improperly disrupted enforcement of the licensing law. Three justices dissented from the reversal of the preliminary injunction.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Hines, Justice; Benham, Justice; Carley, Presiding Justice; Thompson, Justice
JURISDICTION	Georgia
DECIDED	March 25, 2010
DOCKET	No. S09A1831
DISPOSITION	other
PROCEDURAL POSTURE	The Georgia State Licensing Board appealed two orders of the Superior Court of Muscogee County: an order denying the Board's special-appearance motion to dismiss or transfer venue and an order granting the contractor plaintiffs a preliminary injunction against enforcement of the statewide residential and general contractor licensing law.
STANDARD OF REVIEW	Venue was reviewed as a threshold legal matter based on the complaint and relief sought. The injunction ruling was reviewed under Georgia interlocutory-injunction principles, including preservation of the status quo, balancing the probable harms, and whether the relief operated oppressively or caused irreparable injury.
PRECEDENTIAL VALUE	Published opinion; precedential Georgia Supreme Court decision.

PARTIES

Georgia State Licensing Board for Residential and General Contractors v. Richard Allen et al., Columbus-Muscogee County Consolidated Government

TOPICS

construction law

administrative law

venue

injunctions

due process

PRACTICE AREAS

administrative law

construction law

civil procedure

constitutional law

remedies

QUESTIONS PRESENTED

1. Whether venue was proper in Muscogee County for the equitable action against the State Licensing Board when the County, a resident defendant, was also subject to substantial equitable relief sought in common with the Board.
2. Whether the superior court properly granted a preliminary injunction based on alleged failure to provide notice of the examination exemption and the resulting inability of contractors to obtain statewide licenses.
3. Whether the statutory posting requirement in OCGA § 43-41-14(b) required counties to post notice of the time-limited examination exemption opportunity.

HOLDINGS

1. Venue was proper in Muscogee County because the complaint sought substantial equitable relief against both the Board and the resident County in common, including preliminary and permanent injunctions against enforcement of the licensing law.
2. The preliminary injunction was improper because the alleged failure to post notice under OCGA § 43-41-14(b) did not justify enjoining enforcement of the licensing law, and the plaintiffs had not shown irreparable injury or that they would be without an adequate remedy.
3. An interlocutory injunction should preserve the parties' status quo pending final adjudication and should be refused when it would operate oppressively on defendants, particularly where denial would not cause irreparable injury or leave the plaintiff without an adequate remedy.

KEY QUOTATIONS

“By the plain language of OCGA § 43-41-14(b), what is required to be posted are the “licensing requirements” and “the effective dates of such licensing requirements,” not a way to avoid such requirements by exemption.” (348)

“The only appropriate purpose for granting an interlocutory injunction is to preserve the status quo of the parties pending a final adjudication of the case.” (349)

“Moreover, the refusal to grant the requested injunction would not work irreparable injury to the plaintiffs or leave them without remedy in the event they should ultimately prevail in their challenge to the licensing law.”
(349)

FACTUAL BACKGROUND

Georgia's statewide licensing law required residential and general contractors to obtain state licenses beginning July 1, 2008, while allowing certain locally licensed contractors to apply for examination-exempt licenses during an eighteen-month period ending June 30, 2007. The contractor plaintiffs held local certificates of qualification and business licenses in Muscogee County and alleged that they were not given notice of the opportunity to seek examination exemptions. The superior court found that the plaintiffs likely would have qualified for the exemption and enjoined enforcement of the statewide licensing law against them, but the Supreme Court concluded that the statutory notice provision did not require notice of the exemption opportunity and that the plaintiffs had not shown irreparable injury.

PROCEDURAL HISTORY

More than 40 contractors sued the Board and Columbus-Muscogee County Consolidated Government for declaratory and injunctive relief and damages, alleging that lack of notice deprived them of an opportunity to obtain examination-exempt state licenses. The superior court denied the Board's motion to dismiss or transfer venue and granted a preliminary injunction requiring the County to return to prior permitting practices. The Supreme Court of Georgia affirmed the venue ruling and reversed the preliminary-injunction ruling.

DISPOSITION

other

CASES CITED

- Hoffman v. Dept. of Corrections, 218 Ga.App. 363, 460 S.E.2d 882 (1995)
- Agri-Cycle LLC v. Couch, 284 Ga. 90, 91(1), 663 S.E.2d 175 (2008)
- Bloodworth v. Bloodworth, 225 Ga. 379, 385(1)(b), 169 S.E.2d 150 (1969)
- I. Perlis & Sons v. Nat. Surety Corp., 218 Ga. 667, 668, 129 S.E.2d 915 (1963)
- Shaheen v. Dunaway Drug Stores, 246 Ga. 790, 791, 273 S.E.2d 158 (1980)
- Madray v. Ogden, 225 Ga. 806, 809, 171 S.E.2d 560 (1969)
- Hamilton v. Renewed Hope, Inc., 277 Ga. 465, 467, 589 S.E.2d 81 (2003)
- City Council of St. Mary's v. Crump, 251 Ga. 594, 595(2), 308 S.E.2d 180 (1983)
- American Lien Fund v. Dixon, 286 Ga. 562, 690 S.E.2d 415 (2010)
- Bailey v. Buck, 266 Ga. 405(1), 467 S.E.2d 554 (1996)
- Metropolitan Atlanta Rapid Transit Auth. v. Wallace, 243 Ga. 491, 494-495(3), 254 S.E.2d 822 (1979)
- Glen Oak, Inc. v. Henderson, 258 Ga. 455(1), 369 S.E.2d 736 (1988)

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