

SUPREME COURT OF ALABAMA

Tyson v. Jones

60 So. 3d 831 (Ala. 2010) · No. 1090878; 1090939 · Decided July 30, 2010

SUMMARY

The Alabama Supreme Court considers whether attorneys appointed by the governor to the Governor’s Task Force on Illegal Gambling may investigate and prosecute gambling-related matters in a county without authorization from the attorney general, the local district attorney, or the county sheriff. The court addresses an appeal from a preliminary injunction restricting the task force’s activities in Macon County and a related mandamus petition concerning representation of the special prosecutor. The opinion discusses the division of authority among Alabama constitutional and executive-branch officers and the statutory powers of district attorneys and the attorney general.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Justice Murdock; Chief Justice Cobb; Justice Lyons; Justice Woodall; Justice Stuart; Justice Smith; Justice Bolin; Justice Parker; Justice Shaw
JURISDICTION	Alabama
DECIDED	July 30, 2010
DOCKET	1090878; 1090939
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Tyson appealed from a preliminary injunction entered by the Macon Circuit Court and separately petitioned for a writ of mandamus challenging the circuit court's order disqualifying Assistant District Attorney Martha Tierney from representing him. The Supreme Court of Alabama consolidated the appeal and mandamus petition.
STANDARD OF REVIEW	Factual questions in preliminary-injunction proceedings are reviewed under the ore tenus rule. Legal rulings based on undisputed facts are reviewed de novo, while the ultimate decision to issue a preliminary injunction is reviewed for abuse of discretion. A writ of mandamus requires a clear legal right, an imperative duty accompanied by refusal to act, lack of another adequate remedy, and properly invoked jurisdiction.

PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	John M. Tyson, Jr. v. E. Paul Jones, David Warren, Macon County Commission, Johnny Ford, Robert Freeman, Stanley Maxwell

TOPICS

gambling injunctions subject matter jurisdiction appellate procedure standard of review

PRACTICE AREAS

constitutional law criminal law enforcement appellate procedure injunctive relief gambling regulation

QUESTIONS PRESENTED

1. Whether the circuit court had subject-matter jurisdiction to enjoin Tyson and the Governor's Task Force from conducting gambling-related investigations and prosecutions.
2. Whether Tyson's actions under the Governor's appointment constituted a usurpation or intrusion into the authority of the Macon County district attorney, sheriff, or Attorney General sufficient to support quo warranto and a preliminary injunction.
3. Whether the circuit court properly applied the preliminary-injunction requirements.
4. Whether Assistant District Attorney Martha Tierney was authorized to represent Tyson in defending his authority to act as special prosecutor and Task Force commander.
5. Whether Tyson was entitled to a writ of mandamus directing the circuit court to vacate its order disqualifying Tierney.

HOLDINGS

1. The circuit court had subject-matter jurisdiction to adjudicate a quo warranto claim alleging that Tyson was usurping or intruding into the authority of public offices, and it could issue injunctive relief in aid of that jurisdiction.
2. Under the circumstances presented, Governor Riley acted within his constitutional and statutory authority in appointing Tyson and directing him and the Task Force to investigate and prosecute gambling-related offenses statewide; Tyson was not unlawfully usurping the offices of the Macon County district attorney, sheriff, or Attorney General.
3. The Macon County plaintiffs failed to show a likelihood of success on their quo warranto claim, so the preliminary injunction against Tyson and the Task Force lacked a legal basis and had to be reversed.
4. Assistant District Attorney Tierney was authorized to defend Tyson in the underlying action because defending his authority to perform duties assigned by the Governor was a matter in which the State had an interest and fell within her official duties.

KEY QUOTATIONS

“The Governor has determined that action on his part is necessary to take care that the laws are faithfully executed. If the governor’s ‘supreme executive power’ means anything, it means that when the governor makes a determination that the laws are not being faithfully executed, he can act using the legal means that are at his disposal.” (60 So. 3d at 849)

“It is by that “warrant” that he seeks to pursue the enforcement of Alabama law prohibiting certain gambling activities and devices. He is not wrongfully usurping the offices of District Attorney Jones, Sheriff Warren, or Attorney General King.” (60 So. 3d at 851)

FACTUAL BACKGROUND

Governor Bob Riley created the Governor's Task Force on Illegal Gambling and appointed Mobile County District Attorney John M. Tyson, Jr., as a special prosecutor and counsel for the Task Force. Tyson and Task Force personnel entered Macon County to investigate and pursue enforcement concerning electronic-bingo machines, although Macon County District Attorney E. Paul Jones and Sheriff David Warren had not requested assistance and had not prosecuted the operators. The Macon County plaintiffs filed a quo warranto and injunctive action, and the circuit court barred Tyson and the Task Force from acting in Macon County absent a request from local officials or a directive from the Attorney General. The court also disqualified Assistant District Attorney Martha Tierney from representing Tyson.

PROCEDURAL HISTORY

The Macon County plaintiffs filed a quo warranto and injunctive action alleging that Tyson, acting as special prosecutor and commander of the Governor's Task Force on Illegal Gambling, was usurping the authority of the Macon County district attorney, sheriff, and the Attorney General. The circuit court entered a preliminary injunction barring Tyson and the Task Force from acting in or directed to Macon County absent a request from local officials or a directive from the Attorney General. In a separate order, the circuit court ruled that Tierney could not represent Tyson and that her filings were legal nullities. The Supreme Court reversed the preliminary injunction and remanded for entry of a consistent judgment, and granted mandamus relief directing the circuit court to vacate the order disqualifying Tierney.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The preliminary injunction against Tyson was reversed, and the case was remanded for entry of a judgment consistent with the opinion. The petition for mandamus was granted, the writ was issued, and the circuit court was directed to vacate its order disqualifying Assistant District Attorney Tierney from representing Tyson. The motion to strike Tyson's brief was denied.

CASES CITED

- Ex parte State (In re Riley v. Cornerstone Community Outreach, Inc.), 57 So. 3d 704 (Ala. 2010)
- Macon County Greyhound Park, Inc. v. Tyson, 43 So. 3d 587 (Ala. 2010)

- City of Piedmont v. Evans, 64 So. 2d 435 (Ala. 1994)
- Foster v. State, 705 So. 2d 534 (Ala. Crim. App. 1997)
- Barber v. Jefferson County Racing Ass'n, Inc., 960 So. 2d 599 (Ala. 2006)
- King v. Head Start Family Hair Salons, Inc., 886 So. 2d 769 (Ala. 2004)
- Holiday Isle, LLC v. Adkins, 12 So. 3d 1173 (Ala. 2008)
- Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal, 546 U.S. 418 (2006)
- Blount Recycling, LLC v. City of Cullman, 884 So. 2d 850 (Ala. 2004)
- Blaylock v. Cary, 709 So. 2d 1128 (Ala. 1997)
- State v. Anderson, 8 So. 3d 1033 (Ala. Crim. App. 2008)
- State ex rel. Gray v. King, 395 So. 2d 6 (Ala. 1981)
- Decatur Lab., Inc. v. Sizemore, 564 So. 2d 976 (Ala. Civ. App. 1990)
- State v. Simon, 149 Me. 256, 99 A.2d 922 (1953)
- State ex rel. Stubbs v. Dawson, 86 Kan. 180, 119 P. 360 (1911)
- State v. McPhail, 182 Miss. 360, 180 So. 387 (1938)
- Ex parte Integon Corp., 672 So. 2d 497 (Ala. 1995)
- Piggly Wiggly No. 208, Inc. v. Dutton, 601 So. 2d 907 (Ala. 1992)
- Riley v. Hughes, 17 So. 3d 643 (Ala. 2009)
- Ex parte James, 684 So. 2d 1315 (Ala. 1996)
- Eagen v. State, 280 Ala. 438, 194 So. 2d 842 (1967)
- Opinion of the Justices No. 194, 283 Ala. 341, 217 So. 2d 53 (1968)
- Dickerson v. State, 414 So. 2d 998 (Ala. Crim. App. 1982)
- Ex parte Bohannon, 564 So. 2d 854 (Ala. 1988)
- Ex parte White, 300 So. 2d 420 (Ala. Crim. App. 1974)
- Barrett v. State, 705 So. 2d 529 (Ala. Crim. App. 1996)
- Etowah Baptist Ass'n v. Entrekin, 45 So. 3d 1266 (Ala. 2010)
- Barber v. Houston County Economic Development Ass'n, Inc., No. 1090444
- Surles v. City of Ashville, No. 1080826 (Ala. Jan. 29, 2010)
- Barber v. Cornerstone Community Outreach, Inc., 42 So. 3d 65 (Ala. 2009)
- Spykerman v. Levy, 491 Pa. 470, 421 A.2d 641 (1980)
- Beacom v. Board of County Commissioners of Adams County, 657 P.2d 440 (Colo. 1983)
- State ex rel. Troy v. Smith, 187 Ala. 411, 65 So. 942 (1914)