

SUPREME COURT OF FLORIDA

Floridians for a Level Playing Field v. Floridians Against Expanded Gambling

967 So. 2d 832 (Fla. 2007) · No. SC06-2505 · Decided September 27, 2007

SUMMARY

The Supreme Court of Florida discharged its jurisdiction and dismissed review of a case involving a certified question concerning post-election challenges and alleged fraud in the constitutional initiative process. The court held that the certification lacked the required majority support and alternatively concluded that review was premature because the factual record regarding the alleged fraud had not been developed.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Pariente, J.; Lewis, C.J.; Wells, J.; Anstead, J.; Quince, J.; Cantero, J.; Bell, J.
JURISDICTION	Florida
DECIDED	September 27, 2007
DOCKET	SC06-2505
DISPOSITION	dismissed
PROCEDURAL POSTURE	The Supreme Court of Florida accepted discretionary review of a First District Court of Appeal decision that reversed summary judgment, remanded for trial, and certified questions as matters of great public importance. The Supreme Court concluded that jurisdiction had been improvidently granted and discharged jurisdiction, dismissing the review proceeding.
STANDARD OF REVIEW	The Court reviewed whether it possessed discretionary jurisdiction based on a certified question of great public importance and whether exercising jurisdiction was premature.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; precedential on the requirements for certified-question jurisdiction.
PARTIES	Floridians for a Level Playing Field v. Floridians Against Expanded Gambling, et al.

TOPICS

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QUESTIONS PRESENTED

1. Whether the Supreme Court of Florida had discretionary jurisdiction under article V, section 3(b)(4) of the Florida Constitution when the district court's decision to certify the questions was not supported by a majority of the participating judges.
2. Whether the Supreme Court should exercise jurisdiction to articulate an election-cure doctrine before the factual allegations concerning election fraud had been adjudicated.

HOLDINGS

1. Under article V, section 3(b)(4) of the Florida Constitution, a majority of the district court judges participating in the case must concur in the decision to certify a question of great public importance. A vote concurring only in the judgment does not count as concurrence in certification.
2. Even assuming jurisdiction existed, the Court would decline to exercise it because review was premature without a developed factual record establishing the allegations and pervasiveness of election fraud.

KEY QUOTATIONS

“In order to have discretionary jurisdiction based on a certified question, there are essentially three prerequisites that must be met.” (967 So. 2d at 833)

“Accordingly, we conclude that under article V, section 3(b)(4) of the Florida Constitution, it is required that a majority of those judges participating in the case concur in the decision to certify.” (967 So. 2d at 834)

“We believe that the position of the Attorney General is a sound one and conclude, as an alternative basis for discharging jurisdiction, that review in this case is premature.” (967 So. 2d at 835)

FACTUAL BACKGROUND

The underlying case involved a post-election challenge concerning alleged fraud in the initiative process used to amend Florida's Constitution regarding expanded gambling. The Supreme Court did not adjudicate the allegations because the factual record concerning the existence and pervasiveness of fraud had not been developed.

PROCEDURAL HISTORY

The First District Court of Appeal decided *Floridians Against Expanded Gambling v. Floridians for a Level Playing Field*, reversed summary judgment, remanded for a trial, and purported to certify two questions. The Supreme Court accepted review under article V, section 3(b)(4) of the Florida Constitution, but determined that the certification lacked the concurrence of a majority of the participating district court judges. The Court

alternatively concluded that review was premature because the factual record concerning alleged election fraud had not been developed.

DISPOSITION

dismissed

CASES CITED

- Floridians Against Expanded Gambling v. Floridians for a Level Playing Field, 945 So. 2d 553 (Fla. 1st DCA 2006)
- Boler v. State, 678 So. 2d 319, 320 n.2 (Fla. 1996)
- Home Dev. Co. of St. Petersburg v. Bursani, 168 So. 2d 131, 134 (Fla. 1964)
- Rowe v. Winn-Dixie Stores, Inc., 714 So. 2d 1180, 1181 (Fla. 1st DCA 1998)
- Owens v. Publix Supermarkets, Inc., 802 So. 2d 315 (Fla. 2001)
- Hadden v. State, 670 So. 2d 77, 83 (Fla. 1st DCA 1996)
- Pirelli Armstrong Tire Corp. v. Jensen, 777 So. 2d 973 (Fla. 2001)
- Salgat v. State, 652 So. 2d 815 (Fla. 1995)
- Gee v. Seidman & Seidman, 653 So. 2d 384 (Fla. 1995)