

SUPREME COURT OF GEORGIA

Murphy v. Pearson, 284 Ga. 296

667 S.E.2d 83 (2008) · No. No. S08A0687 · Decided September 22, 2008

SUMMARY

The Supreme Court of Georgia held that a county board could not make a prospective appointment to an industrial development authority when the board's composition could change before the vacancy arose. Because Murphy's appointment to the succeeding four-year term was invalid, the court affirmed the determination that Pearson was the rightful officeholder.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Benham, Justice
JURISDICTION	Georgia
DECIDED	September 22, 2008
DOCKET	No. S08A0687
DISPOSITION	affirmed
PROCEDURAL POSTURE	Murphy brought a quo warranto action seeking a determination that she, rather than Pearson, was entitled to serve as a member of the Meriwether County Industrial Development Authority. She appealed from the trial court's determination that Pearson was the rightful member.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Karey Murphy v. Arthur Pearson

TOPICS

municipal law constitutional law civil procedure

PRACTICE AREAS

municipal law constitutional law civil procedure

QUESTIONS PRESENTED

1. Whether the Board of Commissioners had authority in January 2006 to make a prospective appointment to an Industrial Development Authority seat that would not become available until January 2007.
2. Whether Murphy's January 2006 appointment validly entitled her to the four-year term beginning in January 2007.

HOLDINGS

1. An appointing authority may make a prospective appointment only when the vacancy will occur while the appointing authority remains in office; because the Board that appointed Murphy would no longer be the appointing body when the vacancy occurred, Murphy's January 2006 prospective appointment was invalid.
2. Pearson was the rightful member of the Industrial Development Authority because Murphy was not legally appointed to the four-year term commencing in January 2007.

KEY QUOTATIONS

"As a general rule, an appointing authority may make a prospective appointment, that is, an appointment that fills a prospective vacancy before the vacancy occurs." (85)

"The caveat is founded on valid policy considerations, for "[s]uch a prospective appointment usurps the will and power of a future board to fill a vacancy based on the future board's consideration of prevailing policy, personnel and general welfare concerns."" (85)

FACTUAL BACKGROUND

The Meriwether County Industrial Development Authority consists of five members appointed by a majority of the county Board of Commissioners to staggered four-year terms, with vacancies filled for the unexpired term. Murphy was appointed in October 2005 to complete a vacated term and, in January 2006, the Board purported to appoint her to a four-year term beginning after the completed term, mistakenly believing that the existing term expired in January 2006. The term actually expired in January 2007, and a newly reconstituted Board then appointed Pearson to the four-year term.

PROCEDURAL HISTORY

Murphy was appointed to complete an unexpired term on the Industrial Development Authority in October 2005 and was purportedly appointed to a succeeding four-year term in January 2006. After the term she was appointed to complete expired in January 2007, a newly reconstituted Board appointed Pearson. The trial court ruled that Pearson was entitled to the office, and the Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Geeslin v. Opie, 220 Ga. 53(1), 136 S.E.2d 720 (1964)

- O'Neal v. Spencer, 203 Ga. 588, 47 S.E.2d 646 (1948)
- Bryan v. Makosky, 380 Md. 603, 611-12, 846 A.2d 392 (2004)
- Mullinax v. Garrison, 296 S.C. 370, 371, 373 S.E.2d 471 (1988)
- State ex rel. Norman v. Viebranz, 19 Ohio St.3d 146, 148, 483 N.E.2d 1176 (1985)
- State ex rel. Koch v. Lexcen, 131 Mont. 161, 308 P.2d 974 (1957)
- Gonzalez v. Bd. of Ed. of Elizabeth School Dist., 325 N.J. Super. 244, 251-52, 738 A.2d 974 (1999)