

SUPREME COURT OF GEORGIA

In re Gwinnett County Grand Jury

284 Ga. 510 (2008) · No. No. S08A1281 · Decided October 27, 2008

SUMMARY

The Supreme Court of Georgia held that documents and recorded testimony presented to and maintained by a grand jury conducting a civil investigation are not "court records" subject to public access under Uniform Superior Court Rule 21. The court concluded that only presentments made by the grand jury in open court qualify as court records under the rule and affirmed the trial court's judgment.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Benham, Justice; All the Justices
JURISDICTION	Georgia
DECIDED	October 27, 2008
DOCKET	No. S08A1281
DISPOSITION	affirmed
PROCEDURAL POSTURE	Gwinnett County sought production of grand-jury investigative materials under the Open Records Act and Uniform Superior Court Rule 21. The superior court denied production, and the Supreme Court of Georgia granted appellate review.
STANDARD OF REVIEW	Appellate review of the superior court's construction and application of Uniform Superior Court Rule 21 to the requested grand-jury materials.
PRECEDENTIAL VALUE	Published Georgia Supreme Court opinion; precedential
PARTIES	Gwinnett County v. Gwinnett County district attorney and superior court clerk

TOPICS

- grand jury
- civil procedure
- criminal procedure
- statutory interpretation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether documents and recorded testimony presented to and maintained by a grand jury while performing its statutory civil duty to inspect or investigate a county office or its operations are court records available for public inspection under Uniform Superior Court Rule 21.
2. Whether, for purposes of Uniform Superior Court Rule 21, civil grand-jury records include materials other than presentments made by the grand jury in open court.

HOLDINGS

1. Documents and recorded testimony received by a grand jury in pursuit of its statutory civil duties are not court records subject to disclosure under Uniform Superior Court Rule 21 and therefore do not carry the rule's presumption of public access.
2. For purposes of Uniform Superior Court Rule 21, court records concerning the civil duties of a grand jury include presentments made in open court at the conclusion of the investigation, but do not include documents and recorded testimony presented to and maintained by the grand jury that are not included in the open-court presentment.

KEY QUOTATIONS

“Documents and recorded testimony received by a grand jury in pursuit of its civil duties are not subject to disclosure under USCR 21 because they do not fall within that which USCR 21 embodies: they are not court records to which the public and press in Georgia have traditionally enjoyed access.” (668 S.E.2d at 684–685)

“We agree with the trial court that, insofar as the civil duties of a grand jury are concerned, the term “court records” as used in USCR 21 encompasses only the presentments made by the grand jury in open court at the conclusion of the grand jury's investigation.” (668 S.E.2d at 685)

FACTUAL BACKGROUND

The Gwinnett County grand jury conducted a civil investigation into the dissolution of the county's Office of Internal Audits and the transfer of its responsibilities to a newly created Performance Analysis Division. It issued public presentments and recommendations. Gwinnett County later sought transcripts or recordings of testimony, minutes, documents, reports, exhibits, and related materials used by the grand jury, but the county district attorney and superior court clerk declined to produce them.

PROCEDURAL HISTORY

During its September 2006–March 2007 term, the Gwinnett County grand jury investigated the dissolution of the county's Office of Internal Audits and the transfer of its responsibilities. After county officials declined Gwinnett County's request for the grand-jury materials, Gwinnett County petitioned the superior court for production. The superior court ruled that only the presentments made in open court were court records subject to public inspection and denied access to the remaining materials. The Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Motion of Atlanta Journal-Constitution, 269 Ga. 589, 502 S.E.2d 720 (1998)
- Green v. Drinnon, Inc., 262 Ga. 264, 417 S.E.2d 11 (1992)
- Atlanta Journal & Constitution v. Long, 258 Ga. 410, 369 S.E.2d 755 (1988)
- Bowers v. Shelton, 265 Ga. 247, 453 S.E.2d 741 (1995)
- BankWest v. Oxendine, 266 Ga. App. 771, 598 S.E.2d 343 (2004)
- In re Hall County Grand Jury Proceedings, 175 Ga. App. 349, 333 S.E.2d 389 (1985)
- Costello v. United States, 350 U.S. 359, 76 S. Ct. 406, 100 L. Ed. 397 (1956)
- United States v. Navarro-Vargas, 408 F.3d 1184 (9th Cir. 2005)
- Grand Jury Fall Term, A.D. v. City of St. Petersburg, Fla., 624 So. 2d 291 (Fla. App. 1993)