

SUPREME COURT OF ALABAMA

Town of Pike Road v. City of Montgomery

57 So. 3d 693 (Ala. 2006) · Decided September 1, 2006

SUMMARY

The Alabama Supreme Court held that an appeal concerning competing annexations by the Town of Pike Road and the City of Montgomery was premature because the validity of an earlier annexation by the City remained pending in circuit court. The court granted rehearing, withdrew and substituted its prior opinion, and stayed the appeal until the circuit court entered a final judgment.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Chief Justice Nabers; Justice See; Justice Harwood; Justice Stuart; Justice Bolin
JURISDICTION	Alabama
DECIDED	September 1, 2006
DISPOSITION	other
PROCEDURAL POSTURE	On application for rehearing, the Alabama Supreme Court withdrew and substituted its prior opinion and determined that the appeal concerning competing municipal annexations was premature.
PRECEDENTIAL VALUE	Published Alabama Supreme Court opinion; precedential
PARTIES	Town of Pike Road v. City of Montgomery

TOPICS

- municipal law
- ordinances
- appellate procedure
- final judgment rule
- civil procedure

PRACTICE AREAS

- municipal law
- appellate procedure
- annexation

QUESTIONS PRESENTED

- Whether the appeal concerning the priority of competing annexations could be decided before the Montgomery County Circuit Court resolved the validity of the City's earlier April 2005 annexation.
- Whether the Court should consider matters disclosed for the first time in an application for rehearing.

HOLDINGS

1. The appeal was premature because its outcome depended on issues, including the validity of the City's April 2005 annexation, that remained pending in the circuit court; the appeal was therefore stayed pending entry of a final judgment in that action.
2. As a general rule, the Court does not consider matters raised for the first time in an application for rehearing.

KEY QUOTATIONS

“However, it is now apparent that the outcome of this appeal depends on the resolution of issues that must still be determined by the circuit court, including the validity of the April 2005 annexation.” (57 So. 3d at 694)

“Until those issues are resolved, the Court cannot decide the case. The appeal is therefore stayed.” (57 So. 3d at 694)

FACTUAL BACKGROUND

The City of Montgomery and the Town of Pike Road pursued competing annexations of a 700-acre tract in Montgomery County. The parties initially represented that the tract was unincorporated and subject to either annexation, but on rehearing the City disclosed that it claimed to have annexed the tract in April 2005. The validity of that earlier annexation was pending in a Montgomery County Circuit Court action, which also came to encompass the issues raised in the appeal.

PROCEDURAL HISTORY

The Court had previously decided an appeal concerning competing annexations of a 700-acre tract by the City of Montgomery and the Town of Pike Road. On rehearing, the City disclosed an earlier April 2005 annexation and a pending Montgomery Circuit Court action challenging that annexation; the Town confirmed the pending action and amended its complaint to include the issues presented in the appeal. The Court granted rehearing, withdrew its prior opinion, substituted the present opinion, and stayed the appeal pending a final judgment in the circuit-court action.

DISPOSITION

other

REMAND INSTRUCTIONS

The appeal was stayed. The parties were instructed to notify the clerk of the Alabama Supreme Court when a final judgment was entered in the Montgomery County Circuit Court action.

CASES CITED

- Morgan Keegan & Co. v. Cunningham, 918 So. 2d 897, 908 (Ala. 2005)

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