

MUNICIPAL FINANCE

Municipal Finance: Budget

Griffies v. Coweta County,
530 S.E.2d 718 (Ga. 2000)

HOLDING AND SIGNIFICANCE

Once a county commission approves a county officer's budget and allocates certain sums for miscellaneous expenditures, it is within the officer's discretion to determine how the funds are spent. The county commission may not undertake a unilateral review to determine whether the expenditures are a valid exercise of the officer's duties.

BACKGROUND

The plaintiff, an elected officer, was Clerk of the Superior Court of Coweta County. The Board of Commissioners of Coweta County (Board) approved the County's annual budget, including that portion related to the plaintiff's office. Included in the plaintiff's budget were certain funds designated as "miscellaneous" expenditures.

Upon being elected Clerk of the Superior Court, the plaintiff expressed concerns about the quality of the courthouse's drinking water. Trial testimony given indicated that the water was green and contained highly visible impurities. Although testing indicated that the water's copper level exceeded the Environmental Protection Agency's (EPA) maximum contaminant level, the existence of copper was generally considered simply a nuisance, rather than a threat to health. In fact, testing showed that the courthouse water did not exceed EPA's "action level" for copper. Nonetheless, the plaintiff purchased bottled water for her employees and submitted the bills to the Board for payment as miscellaneous expenditures. Upon concluding that the courthouse water was safe and that the bottled water was unnecessary, the Board refused to pay. Thereafter, the plaintiff filed a petition for mandamus directing the County, one of the appellees, to pay for the bottled water. In addition, the plaintiff sought recovery for

the attorney's fees she incurred in bringing the action. The trial court denied both motions, and the plaintiff appealed.

DECISION

Although she is an independent constitutional officer, the Clerk of the Superior Court must submit his or her budget to the Board for approval. Throughout this process, the Board maintains the discretion to change or amend the budget. However, once the budget is approved, the Board may not dictate how the budgeted funds are spent. *Chaffin v. Calhoun*, 415 S.E.2d 906, 907 (Ga. 1992) (holding that the county commission must issue a budget to the sheriff, but it may not dictate how to spend the money). As this court reiterated, "[A] county commission does not, by itself, have the authority to disapprove expenditures for a county officer once that officer's budget has been approved by the commission." *Griffies*, 530 S.E.2d at 720.

If the commission wishes to question the legality of an officer's expenditures, a mandamus or declaratory action against the officer, not a unilateral denial by the commission, is the appropriate remedy. In this case, the Board asked the court to find that the plaintiff's expenditure was inappropriate. However, the general rule is that such spending decisions fell solely within the province of the officer in exercising her official duties and, absent abuse of discretion, a trial court cannot interfere. *See Bd. of Commrs. of Fulton County v. 1991 Tax Digest for Fulton County*, 410 S.E.2d 721, 721 (Ga. 1991) (holding that county officers have great discretion in spending public money on constitutionally-enumerated purposes, and that courts will not invalidate the expenditures unless there is a clear abuse of discretion). The court held that the plaintiff acted within her constitutionally-delegated powers when she purchased the water; therefore her action was not an abuse of discretion.

With regard to the issue of attorney's fees, the plaintiff acted in her official capacity when filing suit. The plaintiff was forced to hire independent counsel because a conflict of interest prevented her from being represented by the County attorney. For these reasons, and because the issues were resolved in her favor, the plaintiff was entitled to an award of attorney's fees.

COMMENTARY

There is a difference between offices created by constitution and offices created by statute. An office may be considered a

constitutional office if the appointment or election process related to the office is set out in the constitution. In Florida, the Clerk of the Circuit Court is an independent, constitutional officer, because the election process for that particular office is authorized by the Florida Constitution. Fla. Const. art. VIII, § 1.

Like the Georgia requirements above, Florida Statutes Section 129.03(2) requires that the Clerk of the Circuit Court, along with other selected constitutional officers, annually to submit a tentative budget for review by the board of county commissioners. After a review of the tentative budget, and completion of all revisions, the board of county commissioners adopts the final budget.

RESEARCH REFERENCES

- *Pearl v. Lomelo*, 416 S.2d 489, 491 (Fla. Dist. App. 4th 1982) (adopting the rule that “a municipal board or officer possesses implied authority to employ counsel in the good faith prosecution or defense of an action undertaken in the public interest, and in conjunction with its or his official duties where the municipal attorney refused to act, or was incapable of, or was disqualified from, acting”).
- Michael E. Libonati & John Martinez, *Sands & Libonati Local Government Law* vol. 4, § 26.02 (West Supp. 2001).
- Eugene McQuillin, *The Law of Municipal Corporations* vol. 15, § 39.17 (Beth A. Buday & Donna M. Poczatek eds., 3d ed., Clark Boardman Callaghan 1995).

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