Supreme Court of Florida

TUESDAY, JUNE 24, 2014

CASE NO.: SC14-1200
Lower Tribunal No(s).: 1D14-2163;
2012-CA-00412;
2012-CA-00490;
2012-CA-2842

PAT BAINTER, ET AL., AS NON-PARTIES	vs.	LEAGUE OF WOMEN VOTERS OF FLORIDA, ET AL.
Petitioner(s)		Respondent(s)

The First District Court of Appeal has certified, pursuant to article V, section 3(b)(5), of the Florida Constitution, that the trial court has passed upon a question of great public importance requiring immediate resolution by this Court. See Non-Parties v. League of Women Voters of Fla., 2014 WL 2770013, at *1 (Fla. 1st DCA June 19, 2014). In light of this Court's decision in League of Women Voters of Florida v. Data Targeting, Inc., 39 Fla. L. Weekly S355, 2014 WL 2186202 (Fla. May 27, 2014), which contemplated this Court's eventual exercise of jurisdiction over this case, we accept jurisdiction. The parties are advised that, absent further motion, we are treating as confidential only those filings that were treated as confidential by the First District.

We hereby accept the initial, corrected answer, and reply briefs, as well as the corresponding appendices, filed by the parties in the First District as, respectively, the Appellants' brief on the merits, the Appellees' answer brief on the merits, the Appellants' reply brief on the merits, and the corresponding appendices. We direct that supplemental briefs in this Court shall be filed as follows: Appellants' supplemental brief on the merits shall be filed on or before July 9, 2014; Appellees' supplemental answer brief on the merits shall be filed on or before July 21, 2014; and Appellants' reply brief on the merits shall be filed on or before July 31, 2014.

The supplemental brief on the merits and supplemental answer brief on the merits shall not exceed twenty-five pages. The supplemental reply brief on the merits shall not exceed fifteen pages.

The Clerk of the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida, shall file the original record which shall be properly indexed and paginated on or before July 7, 2014.

The Court will make a determination at a later date as to whether to set oral argument.

PARIENTE, LEWIS, QUINCE, LABARGA, and PERRY, JJ., concur.
POLSTON, C.J., dissents with an opinion, in which CANADY, J., concurs.

POLSTON, C.J., dissenting.

I see no reason to make any legal rulings except possibly on an appeal of the trial court's final judgment. We take jurisdiction of this case to do what? There is no interlocutory ruling that would affect the trial that is now over.

The procedural posture of this case is unprecedented and bizarre. This case originated as an appeal of a trial court's non-final orders regarding the admissibility of documents that non-parties claimed were protected by the First Amendment to the United States Constitution. The First District Court of Appeal issued an order reversing the trial court's decision to admit some of those documents. When issuing its order, the First District promised a forthcoming opinion to explain its reasoning. However, before the First District had a chance to issue that opinion, the majority of this Court (on May 27, 2014) issued an opinion that "stay[ed] the enforcement of the First District's May 22, 2014, order reversing the circuit court's

May 2, 2014, and May 15, 2014, orders, pending the conclusion of the ongoing trial." League of Women Voters of Fla. v. Data Targeting, Inc., 39 Fla. L. Weekly S355, 2014 WL 2186202, at *4 (Fla. May 27, 2014). Additionally, the majority of this Court ruled that the disputed documents could be admitted into evidence in the ongoing trial but kept from the public. Id. That trial has since been completed, and the parties are only waiting for the trial judge to issue his decision, a decision that will be a final order subject to appeal. Any First Amendment claim regarding evidence that may or may not actually be used by the trial judge in rendering his decision will be subsumed within that final order and can be appealed at that point. Therefore, because the First Amendment issue can be fully and adequately addressed in the appeal of the final judgment, there is no reason for the majority to issue today's order. See Simpson v. Broward Cnty, 241 So. 2d 193, 194 (Fla. 4th DCA 1970) ("Generally speaking, the discretionary writ of certiorari will be granted to review an interlocutory order (not otherwise reviewable by interlocutory appeal) only in those cases in which it clearly appears that there is no full, adequate and complete remedy available to the petitioner by appeal after final judgment.").

Furthermore, it is not at all clear to me that the First District had the jurisdiction to enter its latest opinion regarding its May 22 order because this Court had already exercised jurisdiction over the merits of the case when it reversed the First District's decision that the disputed evidence could not be admitted at trial as well as the trial court's prior ruling that the proceedings using this evidence would remain open to the public. Cf. Phillip J. Padavano, Florida Appellate Practice, § 30.7, at 785 (2014 ed. vol. 2) (explaining that under the all writs provision "[o]ften no remedy is provided by the writ itself other than to preserve the court's ability to provide relief" and that "all writs jurisdiction may be invoked to obtain a stay or

injunction to preserve the status quo of a proceeding that is pending"). What is clear to me is that the majority of this Court improperly and prematurely exercised jurisdiction on May 27 to subvert the appellate process outlined in Florida's constitution. If the majority had simply waited for the First District to complete its job as envisioned by the Florida Constitution, the First District would have gone en banc and vacated its May 22 order on its own. There was absolutely no reason for the majority to distort this Court's all writs jurisdiction in anticipation of the possibility of "eventual jurisdiction." League of Women Voters of Fla., 2014 WL 2186202, at *4.

I respectfully dissent.

CANADY, J., concurs.

A True Copy
Test:

John A. Tomasino
Clerk, Supreme Court

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