

Supreme Court of Florida

FRIDAY, MAY 1, 2015

CASE NO.: SC15-813

ARTHENIA L. JOYNER, ET AL.

vs.

THE FLORIDA HOUSE OF
REPRESENTATIVES, ET AL.

Petitioner(s)

Respondent(s)

The petitioners, certain members of the Florida Senate acting in their capacity as senators, filed an emergency petition for a writ of mandamus, which seeks to compel the Florida House of Representatives to reconvene and continue the 2015 regular legislative session until the conclusion of the session at midnight on May 1, 2015. The petitioners contend that the action of the House in unilaterally adjourning sine die at 1:15 p.m. on April 28, 2015, was contrary to the requirements of article III, section 3(e) of the Florida Constitution.

The petitioners, who filed their petition at approximately 3:20 p.m. on April 30, 2015, have failed to show that in the circumstances presented here, the issuance of a writ of mandamus would produce any beneficial result. See State ex rel. Ostroff v. Pearson, 61 So. 2d 325, 326 (Fla. 1952) (“It is [a] well-established fundamental principle of the law of mandamus that the writ will never be granted in cases when, if issued, it would prove unavailing, or when compliance with it would be nugatory in its effects, or would be without beneficial results and fruitless to the relator.” (citing Campbell v. State ex rel. Garrett, 183 So. 340 (Fla. 1938); Davis ex rel. Taylor v. Crawford, 116 So. 41 (Fla. 1928); Pippin v. State, 74 So. 653 (Fla. 1917))). Accordingly, the emergency petition for writ of mandamus is hereby denied.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, POLSTON, and PERRY, JJ., concur.

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

CANADY, J., concurs with an opinion, in which POLSTON, J., concurs.

PARIENTE, J., concurring.

I agree with the Court's denial of the petition for writ of mandamus. Given that the petition was filed in the afternoon of April 30, 2015, and the 2015 regular legislative session must constitutionally conclude by midnight on May 1, 2015, see art. III, § 3(d), Fla. Const.,¹ there is simply no way to mandate that the entire Florida House of Representatives return to Tallahassee to continue conducting its legislative responsibilities. Issuance of the writ at this time would thus "prove unavailing" and "without beneficial results." State ex rel. Ostroff v. Pearson, 61 So. 2d 325, 326 (Fla. 1952).

I write separately to emphasize that the Court's denial of the petition does not constitute an endorsement of the House's interpretation of the constitutional language in article III, section 3(e), of the Florida Constitution. To the contrary, in my view, the House's unilateral adjournment clearly violated the Constitution.

Article III, section 3(e), provides that "[n]either House shall adjourn for more than seventy-two consecutive hours except pursuant to concurrent resolution." The Constitution specifically contemplates circumstances in which the two legislative houses cannot agree concerning an adjournment of more than seventy-two hours during the established period for a session of the Legislature. In such circumstances, subject to a contrary subsequent agreement of the two houses, the Governor is granted the authority by article III, section 3(f), to "adjourn the session sine die or to any date within the period authorized for such session." Art. III, § 3(f), Fla. Const.

Under the provisions of the Constitution, neither house is permitted unilaterally to adjourn for a period of more than seventy-two consecutive hours. An adjournment of more than seventy-two consecutive hours can be accomplished

1. Article III, section 3(d) allows a regular legislative session to be extended beyond sixty days only "by a three-fifths vote of each house." It does not appear, and the petition does not suggest, that the Court has the authority to mandate the session to continue beyond sixty days, which this year is midnight on May 1.

only by concurrent resolution or by action of the Governor. The House's contrary interpretation—that one house may not unilaterally adjourn during the session for more than seventy-two consecutive hours if it does intend to return, but may unilaterally adjourn sine die for more than seventy-two consecutive hours to conclude the session with no plan to return—is antithetical to the intent of article III, section 3(e). That constitutional provision clearly does not permit one house to adjourn in any fashion for more than seventy-two consecutive hours without the consent of the other house.

As the Supreme Court of Pennsylvania has observed:

The reason of policy for this requirement is not difficult to discern. Because each house is powerless to enact legislation alone, each has a strong interest in insuring that bills passed by it are considered by the other house. The greatest threat to this interest is the possibility that the other house might adjourn, thus disabling itself from the consideration of bills. Protection against this possibility is provided each house by the Constitution in the form of a power to refuse to consent to the adjournment of the other house.

Frame v. Sutherland, 327 A.2d 623, 626-27 (Pa. 1974) (footnote omitted).

Accordingly, the unilateral adjournment sine die by the House on April 28, 2015, at 1:15 p.m.—which resulted in a period of adjournment during the 2015 regular legislative session exceeding seventy-two consecutive hours—violated the plain requirements of the Constitution.

LABARGA, C.J., and LEWIS, QUINCE, and PERRY, JJ., concur.

CANADY, J., concurring.

I would deny the petition on the additional ground that the petitioners have failed to establish a clear legal right to compel the presence of the House of Representatives until midnight on May 1, 2015.

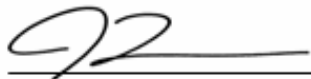
CASE NO.: SC15-813

Page Four

POLSTON, J., concurs.

A True Copy

Test:



John A. Tomasino
Clerk, Supreme Court



cd

Served:

MARK HERRON
JOSEPH BRENNAN DONNELLY
ROBERT J. TELFER, III
JASON PAUL ROJAS
MATTHEW JOSEPH CARSON
DANIEL ELDEN NORDBY