

Serial: 185999

IN THE SUPREME COURT OF MISSISSIPPI

No. 2013-IA-01220-SCT
and
No. 2013-TS-01241-SCT

FILED

AUG 29 2013

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

STATE OF MISSISSIPPI

Petitioner

v.

ROBERT SHULER SMITH, ET AL.

Respondents

ORDER

This matter is before the Court en banc on the State of Mississippi's Combined Petition for Interlocutory Appeal and Motion to Vacate Permanent Injunction. Also before the Court is the Response in Opposition filed by Robert Shuler Smith, et al. In addition, various amicus briefs have been filed and are before the Court.

After due consideration, the Court finds that the Petition for Interlocutory Appeal is well taken and should be granted. The Court also finds that further record preparation and briefing is not needed, and the merits of the petition may be decided at this time. The Court further finds that Cause No. 2013-TS-01241-SCT, which is a direct appeal from the same trial court order, will be decided at this time, without further record preparation or briefing.

On July 12, 2013, a Circuit Judge of the Circuit Court of the First Judicial District of Hinds County, Mississippi, entered an Order Granting Plaintiffs' Motion for Injunctive Relief. The Circuit Judge found House Bill 2 to be unconstitutionally vague and ordered that House Bill 2 shall not take effect until such time as the Mississippi Legislature reviews, amends, or clarifies the Bill.

This Court has recognized that "a governmental enactment is impermissibly vague where it fails to provide persons of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits." *Mayor & Bd. of Aldermen, City of Clinton v. Welch*, 888 So. 2d 416, 421 (Miss. 2004). We have held that "statutes must clearly warn what conduct is prohibited when evaluated by common understanding and practice, and that a rule is not objectionable merely because it is stated in general terms." *State ex rel. Hood v. Louisville Tire Center, Inc.*, 55 So. 3d 1068, 1072 (Miss. 2011).

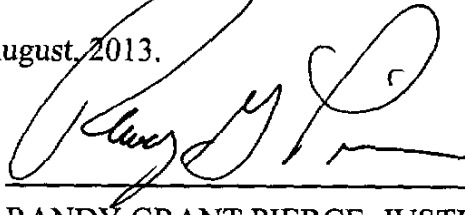
This Court now finds that the Circuit Judge erred as a matter of law when he found House Bill 2 to be vague and, therefore, unconstitutional. He also erred when he stated that "a reasonable person reading the bill could not discern what the law allows and what it prohibits." Therefore, the Petition for Interlocutory Appeal is granted and rendered, and the Order Granting Plaintiffs' Motion for Injunctive Relief is vacated.

IT IS THEREFORE ORDERED that the State of Mississippi's Combined Petition for Interlocutory Appeal and Motion to Vacate Permanent Injunction is hereby granted.

IT IS FURTHER ORDERED that the Order Granting Plaintiffs' Motion for Injunctive Relief, entered on July 12, 2013, in Cause No. 251-13-595CIV, in the Circuit Court of the First Judicial District of Hinds County, Mississippi, is hereby vacated.

IT IS FURTHER ORDERED that the appeal in Cause No. 2013-TS-01241-SCT is hereby dismissed. Costs of the appeal are assessed to the Appellees.

SO ORDERED, this the 29th day of August, 2013.

A handwritten signature in black ink, appearing to read "Randy G. Pierce", written over a horizontal line.

RANDY GRANT PIERCE, JUSTICE
FOR THE COURT

TO GRANT AND RENDER: ALL JUSTICES.