

Bond Case Briefs

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COUNTIES - IOWA

Marcus News, Inc. v. O'Brien County Board of Supervisors

Supreme Court of Iowa - November 15, 2019 - N.W.2d - 2019 WL 6040805

Owner of disappointed applicants for designation as official county newspaper, which were under common ownership and published in the same city, contested entitlement for designation as official county newspaper.

The District Court affirmed county Board of Supervisors' decision to consider disappointed applicants as separate newspapers, and designation of two newspapers owned by intervenor as the official county newspapers for publication of official proceedings.

Following District Court's denial of motion for reconsideration, owner of disappointed applicants appealed.

The Supreme Court held that:

- Subscriber lists demonstrated that disappointed applicants served different geographic areas, and thus were precluded from being combined for purposes of determining circulation;
- Board was not required to combine and consider two successful applicants as one publication in the same geographic area; and
- Owner of disappointed applicants was not entitled to relief based upon claim that successful applicants' subscribers were not bona fide yearly subscribers.

Subscriber lists for disappointed applicants for designation as official county newspapers demonstrated that applicants served different geographic areas, and thus were precluded from being combined to be considered as one publication for purposes of determining circulation; newspapers were not equally distributed throughout county, and legislature chose to impose a same-geographic-area requirement for combining publications, rather than a county-wide requirement.

County Board of Supervisors was not required to combine, and consider as one publication in the same geographic area, two successful applicants for designation as official county newspapers, where 87 percent of subscribers of one newspaper were located within city, while 58 percent of second newspaper were located outside of city.

Owner of disappointed applicants for designation as official county newspapers was not entitled to relief from district court's designation of successful applicants as county's official newspapers based upon claim that successful applicants' subscribers were not bona fide yearly subscribers; short renewal terms did not mean that listed subscribers were not subscribers who received publications for at least six consecutive months, and largest disappointed applicant still had fewer subscribers than smallest successful applicant.