

Bond Case Briefs

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EMPLOYMENT - GEORGIA

Jones v. Boone

Supreme Court of Georgia - June 29, 2015 - S.E.2d - 2015 WL 3937411

Former city attorney petitioned for writ of quo warranto challenging the validity of his termination and interim city attorney's appointment. The trial court granted a writ of quo warranto, and interim city attorney appealed.

The Supreme Court of Georgia held that:

- Former city attorney had standing to seek writ of quo warranto;
- Order granting former city attorney leave to file a petition for quo warranto to challenge city council's termination of his services as city attorney, and their appointment of an interim city attorney, was not improper on the basis it was signed by the clerk of court, or that a different judge presided over the hearing to determine whether or not the petition should be granted;
- The sole authority to appoint a city attorney remained in the city council, and mayor's appointment of an interim city attorney was invalid; and
- Trial court was not required to conduct a jury trial in quo warranto proceeding.

City mayor was without authority to treat abstention by city council member as a negative vote, and thus, because there was no tie vote on the motion to delegate to mayor the power to appoint a city attorney, mayor was not authorized to cast a vote in its favor, the sole authority to appoint a city attorney remained in the city council, and mayor's appointment of an interim city attorney was invalid. City charter, which set forth the sole power conferred by the city upon the mayor with regard to her right to vote on council matters, was silent as to how to treat an abstention, and therefore, council member's abstention from voting on the motion was in fact, no vote at all.