



Supreme Court of Georgia



SUMMARIES OF OPINIONS

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GEORGIA CARRY.ORG. V. CODE REVISION COMMISSION (S16A1045)

The Supreme Court of Georgia has ruled against a gun rights organization in its attempt to compel state officials to amend Georgia law and make it legal for a licensed gun owner to carry a gun on school property.

In today's unanimous opinion, written by **Chief Justice Hugh Thompson**, the high court has upheld a **Fulton County** judge's dismissal of a lawsuit brought by GeorgiaCarry.Org, Inc. against the Code Revision Commission and its members, including Gov. Nathan Deal, House Speaker David Ralston, and Lt. Gov. Casey Cagle. The Commission is responsible for compiling, editing and publishing the laws and resolutions passed by the General Assembly.

During the 2014 legislative session, the General Assembly passed two related bills, and the governor signed both into law. The first that passed and was signed by the governor on April 22, 2014, was House Bill 826. It amended Georgia Code § 16-11-127.1 to permit a person licensed to carry a firearm to do so within a "school safety zone," which is defined as "any real property or building owned by or leased to any school or postsecondary institution." The second that passed and the governor signed one day later, on April 23, 2014, was House Bill 60. It also amended § 16-11-127.1, but it did so by specifically prohibiting the carrying of a firearm or other weapon within a school safety zone. Among the exceptions, House Bill 60 allowed licensed gun owners to carry a firearm within a school safety zone but only "when such person carries or picks up a student within a school safety zone."

The Code Revision Commission determined that the two bills conflicted with each other, and under Georgia Code § 28-9-5 (b), when two bills obviously conflict and cannot be read together, the last one passed controls. The Commission then determined that House Bill 60 would be the one to take effect and it incorporated its school zone language into Georgia Code § 16-11-127.1. During the next legislative session, the governor approved House Bill 90, which reenacted and made corrections to Georgia Code § 16-11-127.1 but did not change the school zone language that had been incorporated from House Bill 60.

Preferring House Bill 826, in February 2015, GeorgiaCarry.Org sued the Commission and its members, seeking a “writ of mandamus” to force the Commission to republish the text of § 16-11-127.1 so it was consistent with the language of House Bill 826. GeorgiaCarry also sought a ruling from the judge declaring that it is not a crime for a person with a weapons carry license to carry a firearm within a school safety zone. Both Gov. Deal and the Commission filed motions asking the trial court to dismiss the case, arguing that House Bill 90 rendered the action moot and that House Bill 826 had essentially been repealed by House Bill 60. In separate orders, the trial court granted the motions to dismiss the case, ruling (1) that House Bill 90 had fixed any defects in the language of the law; (2) that no controversy existed requiring resolution by a court because the law is clear that House Bill 60, the bill enacted last in time, controls; and (3) that GeorgiaCarry was not entitled to mandamus relief. GeorgiaCarry then appealed the ruling regarding the Commission’s motion to dismiss to the Georgia Supreme Court.

Under today’s opinion, the high court has determined that the school zone language of House Bill 60 effectively repealed the provisions of House Bill 826 amending Georgia Code § 16-11-127.1. Under Georgia Code 28-9-5 (b), if the relevant provisions of the two bills “cannot ‘reasonably stand together,’ the later enacted bill controls,” the opinion says. And “we agree with the trial court’s conclusion that their provisions relating to the carrying of weapons within a school safety zone are in irreconcilable conflict.”

“Accordingly, the two statutes cannot stand together and the provisions of House Bill 826 § 1-1 related to the carrying of firearms in a school safety zone did not survive the subsequent enactment of House Bill 60,” the opinion says.

At the time the trial court ruled on the motion to dismiss, the language of House Bill 60 had already been written into the Georgia Code by the Code Revision Commission, and was controlling law. Therefore, “GeorgiaCarry.Org was not entitled to relief under any state of provable facts alleged in the amended complaint, there was no actual controversy which would have authorized a declaratory judgment, and the trial court did not err by granting [the Commission’s] motion to dismiss,” the opinion concludes.

“Judgment affirmed. All the Justices concur.”

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