

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2011 CA 0787

LIVINGSTON PARISH COUNCIL ON AGING

VERSUS

WILLIE GRAVES, SHERIFF OF LIVINGSTON PARISH

 Judgment Rendered: DEC 21 2011

Appealed from the
Twenty-First Judicial District Court
In and for the Parish of Livingston
State of Louisiana
Suit Number 127,878

Honorable Wayne Ray Chutz, Presiding

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BEFORE: WHIPPLE, KUHN, AND GUIDRY, JJ.

Whipple, J. concurs

GUIDRY, J.

Willie Graves, Sheriff of Livingston Parish (Sheriff), appeals from a judgment of the trial court ordering that all commission funds or fees collected in connection with the two mil assessment for the Livingston Parish Council on Aging (LPCOA) be turned over to the Parish of Livingston, through the LPCOA, and further ordering that no commissions or fees be deducted or collected in the future by the Sheriff on this milage. For the reasons that follow, we reverse.

FACTS AND PROCEDURAL HISTORY

In 2003, the LPCOA, a non-profit corporation serving the needs of the elderly in Livingston Parish, adopted Resolution Number 03-428, authorizing an election to establish a two mil property tax for a period of ten years to be used by the LPCOA to pay costs of programs for the elderly. The millage proposition was subsequently passed by a majority vote of the electorate of Livingston Parish on November 15, 2003. In 2004, the Sheriff began collecting the property tax on behalf of the LPCOA and deducted a commission in the amount of twelve percent of the taxes collected.

On March 24, 2010, the LPCOA filed a petition for declaratory judgment and other relief seeking a judgment from the court declaring that the Sheriff's collection of a commission from the property tax is improper, and seeking a judgment requiring the Sheriff to remit the collected commissions to the LPCOA. Following a hearing, the trial court signed a judgment on January 12, 2011, ordering all commission funds or fees collected by the Sheriff from December 2004 to the present in connection with the two mil assessment be immediately turned over to the LPCOA and ordering that no commissions or fees be deducted or collected in the future by the Sheriff on this milage. Sheriff Graves now appeals from this judgment, asserting that the trial court erred in finding that 1976 La. Acts

No. 689 does not permit a Sheriff from charging a commission for the collection of taxes that were not on the tax rolls for the tax year ending in 1977.

DISCUSSION

Questions of law, such as the proper interpretation of a statute, are reviewed by this court under the de novo standard of review. Land v. Vidrine, 10-1342, p. 4 (La. 3/15/11), 62 So. 3d 36, 39. After our review, we render judgment on the record, without deference to the legal conclusions of the tribunals below. Land, 10-1342 at p. 4, 62 So. 3d at 39.

The starting point in the interpretation of any statute is the language of the statute itself. When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature. Land, 10-1342 at p. 4, 62 So. 3d at 39. The meaning and intent of a law is determined by considering the law in its entirety and all other laws on the same subject matter and by placing a construction on the law that is consistent with the express terms of the law and with the obvious intent of the legislature in enacting the law. Toomy v. Louisiana State Employees' Retirement System, 10-1072, p. 6 (La. App. 1st Cir. 3/25/11), 63 So. 3d 198, 202, writ denied, 11-1118 (La. 10/21/11), ___ So. 3d ___.

Courts should give effect to all parts of a statute and should not give a statute an interpretation that makes any part superfluous or meaningless, if that result can be avoided. Toomy, 10-1072 at p. 6, 63 So. 3d at 202. It is presumed that every word, sentence, or provision in the law was intended to serve some useful purpose, that some effect is to be given each such provision, and that no unnecessary words or provisions were used. Toomy, 10-1072 at p. 6, 63 So. 3d at 202. It is also presumed that the legislature enacts each statute with deliberation and with full

knowledge of all existing laws on the same subject matter. Toomy, 10-1072 at p. 5, 63 So. 3d at 202.

In 1976, the Louisiana Legislature enacted Act 689, which amended and reenacted Section 1421 and Subsections A, B, and D of Section 1423, all of Title 33 of the Louisiana Revised Statutes of 1950 relative to the sheriff's salary fund. Act 689 also added a new chapter to Title 33, designated as Chapter 26, consisting of Sections 9001 through 9008, which provided for the creation of special law enforcement districts in each parish, except Orleans, for the purpose of financing the office of sheriff; provided for a method of funding of said districts; provided for a rollback in millages by certain tax recipient bodies in the parish to offset the millage levied by said special districts; and provided for the annual compensation for sheriffs and ex officio tax collectors.

The LPCOA asserts that with the enactment of Act 689, and specifically the addition of La. R.S. 33:9003, a sheriff can no longer deduct a commission from the ad valorem taxes it collects on behalf of taxing authorities such as the LPCOA. Louisiana Revised Statute 33:9003, provides, in pertinent part:

A. Each district hereby created shall levy a tax on the assessed valuation of all property appearing on the 1977 and subsequent tax rolls, without a vote of the people, in an amount that will produce for the district in the initial year the same revenue as that estimated to be produced by the sheriff's commission on ad valorem taxes for the fiscal year 1976-1977; however, the taxes generated by the millage levied shall be levied free of deductions for retirement systems, and the tax assessor's compensation, including the cost of reappraisal within the meaning of Section 1872 of Title 47 of the Louisiana Revised Statutes of 1950. The amount of millage to be assessed shall be certified by the legislative auditor, and this millage adopted shall remain in effect in subsequent years unless changed as provided by law.

The language of La. R.S. 33:9003 permits a sheriff to levy a tax based on the assessed valuation of property appearing on the 1977 *and* subsequent tax rolls, in an amount that will produce for the sheriff in the initial year the same revenue as

that estimated to be produced by the sheriff's commission on ad valorem taxes *for the fiscal year 1976-1977*. The reference to property on subsequent tax rolls is conjunctive with the initial assessment year of 1977, and when read together with the language relating to the determination of the amount of tax to be levied by the law enforcement district, the tax clearly only applies to taxes on the rolls in 1977. To read otherwise would ignore the clear references to those years in the statute. Further, any taxes placed on the rolls for the district after 1977 are not only not included in the calculation of the sheriff's tax as outlined above, but there is no way, based on the additional language that "this millage adopted shall remain in effect in subsequent years" for the sheriff to collect a tax on these new millages in the future.

Further, La. R.S. 33:9005, which provides for the rollback of millages by certain taxing authorities in the parish to offset the millage levied by the special law enforcement district, is also limiting in its language, providing that a taxing authority shall adjust millages "*in the year in which the special district provided for herein is created*" so that taxes are not increased as a result of the creation of the special districts. Special law enforcement districts, however, were created by Act 689 in 1976. Thus, this language, like the language in La. R.S. 33:9003, relates specifically to a certain time, requiring the rollback of millages only in the year the special law enforcement districts were created, or 1976. It does not, however, provide for the rollback of a millage by a taxing authority, whose millage is added to the tax rolls subsequent to this time.

Finally, La. R.S. 33:9008 provides that "[n]othing contained herein shall be interpreted as diminishing any of the authority of the sheriff as delegated to him in the constitution and laws of this state." This sentiment is echoed in Section 6 of Act 689, which provides:

Nothing herein shall be construed as repealing any other of the provisions of law relating to the sheriff's salary fund which are not specifically repealed herein. The sheriff shall continue to collect all fees, charges, *commissions* and other funds payable to the sheriff's salary fund as provided by law. [Emphasis added.]

Louisiana Revised Statute 33:1423, relative to the sheriff's salary fund, provides, in pertinent part:

C. In the following parishes, the tax collector shall deduct as commissions not more than the following percentages of the aggregate amount of such taxes shown to be collectable by the tax rolls:

* * *

Livingston

17%

This provision was not repealed by Act 689 or any other subsequent act of the legislature, and therefore, remains in effect. Further, according to the plain language of the statute, a sheriff is permitted to deduct a commission on "taxes shown to be collectable by the tax rolls," without any language limiting the commission to any particular types of taxes. See La. R.S. 33:1423(c).

Therefore, after reviewing the statutory provisions related to the financing of the office of the sheriff and the sheriff's salary fund, we find that because the LPCOA was not placed on the tax rolls until 2004, La. R.S. 33:9003 does not apply to the two mil property tax assessment on behalf of the LPCOA. Further, because La. R.S. 33:1423(C) permits a sheriff to deduct as a commission up to a certain percentage of the amount of taxes shown to be collectable by the tax rolls, the sheriff was correct to deduct a commission for the collection of the property taxes on behalf of the LPCOA.

CONCLUSION

For the foregoing reasons, we reverse the judgment of the trial court. All costs of this appeal are assessed to the Livingston Parish Council on Aging.

REVERSED.