

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
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June 3, 2010

Opinion No. 10-80

General Sessions Court of Jackson County

QUESTIONS

1. Did Chapter 217, § 4, of the Private Acts of 1976 provide the Judge of the General Sessions Court of Jackson County with all judicial powers that were previously provided to county court judges by Tenn. Code Ann. § 16-709?

2. If so, are those powers still granted to the Judge of the General Sessions Court of Jackson County in light of subsequent amendments to Tenn. Code Ann. § 16-16-107 [formerly Tenn. Code Ann. § 16-709]?

OPINIONS

1. Yes.

2. The 2003 and 2005 amendments to Tenn. Code Ann. § 16-16-107 do not have any bearing on the judicial powers that were bestowed upon the Judge of the General Sessions Court of Jackson County by Chapter 217, § 4, of the Private Acts of 1976; however, Chapter 16 of the Private Acts of 1997 does. All jurisdiction for probate and related matters that was transferred to the Jackson County General Sessions Court by Chapter 217, § 4, of the Private Acts of 1976 is now bestowed upon the Chancery Court for Jackson County by Chapter 16 of the Private Acts of 1997.

ANALYSIS

This opinion request concerns the judicial powers of the Judge of the General Sessions Court of Jackson County. In 1976, the General Assembly passed a private act that abolished the office of County Chairman of Jackson County and transferred the judicial powers exercised by that official to the Judge of the Jackson County General Sessions Court. Specifically, Chapter 217, § 4, of the Private Acts of 1976 (“Chapter 217”) provided:

The office of County Chairman of Jackson County is abolished, effective January 1, 1977. All judicial powers and duties exercised prior to the effective date of this act by the County Chairman of Jackson County, whether pursuant to general law or private act, are transferred, effective January 1, 1977, to the Judge of the Court of General Sessions of Jackson County. The Clerk of the County Court shall

continue to be the clerk for all matters of probate but all other judicial matters shall be the duty of the Clerk of the General Sessions Court.

At the time of the passage of Chapter 217, Tenn. Code Ann. § 16-709 provided original jurisdiction to the county courts for certain cases. The statute provided:

The county court has original jurisdiction in the following cases:

- (1) The probate of wills.
- (2) The granting of letters testamentary and of administration, and the repeal and revocation thereof.
- (3) All controversies in relation to the right of executorship or of administration.
- (4) The settlement of accounts of executors or administrators.
- (5) The partition and distribution of the estates of decedents; and for these purposes, the power to sell the real and personal property belonging to such estates, if necessary to make the partition and distribution, or if manifestly for the interest of the parties.
- (6) To sell real estate for the payment of debts of a decedent as provided in §§ 30-602, 30-603.
- (7) The appointment and removal of guardians for minors and persons of unsound mind, and all controversies as to the right of guardianship, and the settlement of guardian accounts.
- (8) The allotment of dower in lands.
- (9) The partition, sale, or division of land.
- (10) The changing of names and the legitimation of children.
- (11) The issuance of inquisitions of unsoundness of mind.
- (12) The binding out of apprentices, and all controversies between master and apprentice.

In counties having a county judge, he shall have the powers above enumerated.

Tenn. Code Ann. § 16-709 (1956).

A county chairman was entitled to exercise all jurisdiction belonging to a county court. *See Johnson v. Brice*, 112 Tenn. 59, 83 S.W. 791, 793 (1904) (“the county judge or chairman has all jurisdiction belonging to the county court, except such as is expressly or by reasonable implication devolved upon the quarterly court,” the duties of which are essentially legislative). Thus, in response to your first question, Chapter 217 provided the Judge of the General Sessions Court of Jackson County with all judicial powers that were previously provided to the Jackson County Chairman by Tenn. Code Ann. § 16-709 because Chapter 217, § 4, clearly provides that “[a]ll judicial powers and duties exercised prior to the effective date of this act by the County Chairman of Jackson County, whether pursuant to general law or private act, are transferred, effective January 1, 1977, to the Judge of the Court of General Sessions of Jackson County.”

Your second question is whether subsequent amendments to Tenn. Code Ann. § 16-16-107 [formerly Tenn. Code Ann. § 16-709] disturb the judicial powers bestowed upon the Judge of the General Sessions Court of Jackson County by Chapter 217. We note the passage of three

amendments to Tenn. Code Ann. § 16-16-107 since the enactment of Chapter 217.¹ We assume that your question pertains to the amendments that occurred in 2003 and 2005, respectively.² Before discussing these two amendments, other intervening legislation must first be addressed.

In 1978, the traditional structure of county government in Tennessee was substantially altered by the adoption of an amendment to Article VII of the Tennessee Constitution. The Amendment provided, in part, the following:

Sec. 1. County government—Elected officers—Legislative body—Alternate forms of government.—The qualified voters of each county shall elect for terms of four years a legislative body, a county executive, a Sheriff, a Trustee, a Register, a County Clerk and an Assessor of Property. Their qualifications and duties shall be prescribed by the General Assembly. Any officer shall be removed for malfeasance or neglect of duty as prescribed by the General Assembly.

While this amendment did not vest any judicial authority in the county executive, the Tennessee Supreme Court observed that the General Assembly sought to vest such authority in that officer by the enactment of Chapter 934, § 17, of the Public Acts of 1978, which provided that “the judicial authority formerly exercised by the county judge, county chairman, or other elected official of county government shall be vested in the county executive.” *Waters v. State ex rel. Schmutzer*, 583 S.W.2d 756, 759-760 (Tenn. 1979). The *Waters* Court stated that “[t]he judicial authority referred to [in Chapter 934, § 17, of the Public Acts of 1978] is that of the county court, T.C.A. §§ 16-701, *Et seq.*, and the juvenile court, T.C.A. §§ 37-201, *Et seq.*” *Id.* at 760. The *Waters* Court determined that the General Assembly’s attempt to bestow judicial powers upon county executives was unconstitutional because those holding the offices of juvenile court judge and county court judge must meet the requirements contained in Article VI, § 4, of the Tennessee Constitution governing qualifications of judges of “inferior” courts. *Id.* at 760-761.

As a result of *Waters*, the General Assembly passed an act in 1980 that granted all probate and related jurisdiction formerly vested in county judges and chairmen to the chancery court, unless otherwise provided by legislative enactment. In pertinent part, the act provided:

In all counties *where not otherwise specifically provided by public, private, special or local acts*, all jurisdiction relating to the probate of wills and the administration of estates and related matters heretofore vested in the county court, the county judge or county chairman, is hereby vested in the chancery court of the respective counties. The chancery court in such counties shall have exclusive jurisdiction over the probate of wills and the administration of estates, and all matters relating thereto, heretofore vested in the county court, the county judge or county chairman.

¹ See 1976 Tenn. Pub. Acts 529, § 5; 2003 Tenn. Pub. Acts 310; 2005 Tenn. Pub. Acts 24.

² The first amendment occurred shortly after the passage of Chapter 217 of the Private Acts of 1976; it was a minor amendment wherein the county court’s jurisdiction over “the allotment of dower in lands” was deleted. 1976 Tenn. Pub. Acts 529, § 5.

1980 Tenn. Pub. Acts Ch. 875, § 1 (emphasis added). This act is codified at Tenn. Code Ann. § 16-16-201(a), and it has been interpreted to vest all judicial powers under Tenn. Code Ann. § 16-16-107 [formerly Tenn. Code Ann. § 16-709] in the chancery court of each county unless “otherwise specifically provided.” See *In re Estate of Stocks*, No. 02A01-9612-CH-00310, 1997 WL 437215, at *3 (Tenn. Ct. App. 1997); Op. Tenn. Att’y Gen. 80-395 (August 5, 1980).

With respect to Jackson County, it is our opinion that Chapter 217, § 4, of the Private Acts of 1976 “otherwise specifically provided” because it stated that “[a]ll judicial powers and duties exercised prior to the effective date of this act by the County Chairman of Jackson County, whether pursuant to general law or private act, are transferred, effective January 1, 1977, to the Judge of the Court of General Sessions of Jackson County.” Thus, the Jackson County General Sessions Judge’s authority to exercise the judicial powers contained in Tenn. Code Ann. § 16-709 was unaffected by the enactment of Tenn. Code Ann. § 16-16-201. See, e.g., *In re Estate of Thompson*, 952 S.W.2d 429, 431-432 (Tenn. Ct. App. 1997) (General Sessions Court of Blount County could exercise probate jurisdiction because it was the type of exception contemplated by Tenn. Code Ann. § 16-16-201 since there were private acts vesting the Blount County General Sessions Court with probate jurisdiction and all jurisdiction and authority conferred upon the County Judge or County Chairman); *In re Estate of O’Neal*, No. 03A01-9706-CH-00214, 1998 WL 10214, at *1 (Tenn. Ct. App. 1998) (General Sessions Court of Loudon County was an exception contemplated by Tenn. Code Ann. § 16-16-201 because private act vested jurisdiction in such court over all matters related to probate); *In re Estate of Graham*, App. No. 85-114-II, 1986 WL 3156, at *1 n. 1 (Tenn. Ct. App. 1986) (General Session Court of Sumner County found to have jurisdiction over probate matter because private act vested such jurisdiction in this court).

Further, the 2003 and 2005 amendments to Tenn. Code Ann. § 16-16-107 do not have any bearing on the judicial powers of the Judge of the General Sessions Court of Jackson County. As a result of these amendments, Tenn. Code Ann. § 16-16-107 currently provides:

- (a)(1) The county court has original jurisdiction in the following cases:
 - (A) The probate of wills;
 - (B) The granting of letters testamentary and of administration, and the repeal and revocation of letters testamentary and of administration;
 - (C) All controversies in relation to the right of executorship or of administration;
 - (D) The settlement of accounts of executors and administrators;
 - (E) The partition and distribution of the estates of decedents; and for these purposes, the power to sell the real and personal property belonging to the estates, if necessary to make the partition and distribution, or if manifestly for the interest of the parties;
 - (F) To sell real estate for the payment of debts of a decedent as provided in former §§ 30-602 and 30-603;
 - (G) The appointment and removal of guardians for minors and persons of unsound mind, and all controversies as to the right of guardianship, and the settlement of guardian accounts;
 - (H) The partition, sale or division of land;
 - (I) The changing of names and the legitimation of children;

(J) The issuance of inquisitions of unsoundness of mind; and
(K) The binding out of apprentices, and all controversies between master and apprentice.

(2) In counties having a county judge, the county judge shall have the powers enumerated in subdivision (a)(1).

(b) Subsection (a) shall only apply in counties having a population, according to the 2000 federal census or any subsequent federal census, of:

<u>not less than</u>	<u>not more than</u>
12,800	12,900
27,100	27,200
43,100	43,200
62,300	62,400
182,000	182,100

(c) In counties having a population of not less than thirty-nine thousand fifty (39,050) nor more than thirty-nine thousand one hundred fifty (39,150), according to the 2000 federal census of population or any subsequent federal census, the circuit court clerk, who also serves as the general sessions court clerk, shall serve as the clerk of the court with probate jurisdiction in any such counties.

As evidenced above, the 2003 and 2005 amendments to Tenn. Code Ann. § 16-16-107 did not diminish the jurisdiction of county courts. The result of these amendments is that Tenn. Code Ann. § 16-16-107 now applies to certain counties that have population figures within certain ranges. According to the 2000 federal census, Jackson County has a population of 10,984. *See* Tenn. Code Ann. § 1-3-116(a). Thus, Jackson County is not one of the counties to which Tenn. Code Ann. § 16-16-107 currently applies, and the 2003 and 2005 amendments to the statute did not affect the judicial powers of the General Sessions Judge of Jackson County. A county court did not cease to exist in Jackson County because Tenn. Code Ann. § 16-16-107 was amended in 2003 and 2005; it had already ceased to exist when Chapter 217 of the Private Acts of 1976 abolished the office of Jackson County Chairman. This private act transferred all judicial powers and duties exercised by that official to the Judge of the General Sessions Court of Jackson County. It is well established that the General Assembly has the power to determine how many and what kinds of courts are required for the administration of justice, including the power to fix the limits of each court's jurisdiction. *See Moore v. Love*, 171 Tenn. 682, 107 S.W.2d 982, 985 (Tenn. 1937); *State v. Keller*, 813 S.W.2d 146, 148 (Tenn. Crim. App. 1991). Accordingly, the 2003 and 2005 amendments to Tenn. Code Ann. § 16-16-107 did not disturb the judicial powers bestowed upon the Jackson County General Sessions Judge by Chapter 217.

But Chapter 217 was later amended by Chapter 16 of the Private Acts of 1997 to place all matters of probate under the jurisdiction of the chancery court:

The office of County Chairman of Jackson County is abolished, effective January 1, 1977. All judicial powers and duties exercised prior to the effective date of this

act by the County Chairman of Jackson County, whether pursuant to general law or private act, are transferred, effective January 1, 1977, to the Judge of the Court of General Sessions of Jackson County. All matters of probate are placed under the jurisdiction of the Chancery Court and the Clerk and Master shall be the clerk for all matters of probate, but all other judicial matters shall be the duty of the Clerk of the General Sessions Court.

1976 Tenn. Priv. Acts 217, § 4, as amended by 1997 Tenn. Priv. Acts 16.

The passage of Chapter 16 of the Private Acts of 1997 evidences the General Assembly's intent to bring Jackson County in conformity with the general rule under Tenn. Code Ann. § 16-16-201(a) that all jurisdiction for probate and related matters is vested in the chancery court. Consequently, the authority of the Jackson County General Sessions Judge to exercise the judicial powers listed in Tenn. Code Ann. § 16-16-107 ceased as the result of the passage of Chapter 16 of the Private Acts of 1997.

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