

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D20-635

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PAT FRANK, in her official  
capacity as Hillsborough County  
Clerk of Court and in her  
individual capacity;  
DON SPENCER, in his official  
capacity as Santa Rosa County  
Clerk of Court and in his  
individual capacity;  
LINDA DOGGETT, in her official  
capacity as Lee County Clerk of  
Court and in her individual  
capacity; DOUGLAS R. BAKKE;  
and ROBERT LEE RUSS, JR.,

Appellants,

v.

FLORIDA DEPARTMENT OF  
REVENUE; and FLORIDA  
DEPARTMENT OF FINANCIAL  
SERVICES,

Appellees.

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On appeal from the Circuit Court for Leon County.  
Kevin J. Carroll, Judge.

November 16, 2020

PER CURIAM.

Appellants are the Clerks of Court of three Florida counties and two employees of the Clerk for Hillsborough County. They were plaintiffs below in a declaratory judgment action which challenged the constitutionality of subsections of two Florida statutes related to funding for county clerks of court throughout the State. Appellees were the defendants below and are the State agencies that manage certain trust funds related to the filing fees and budgets for all county clerks. The parties agreed that there was no factual dispute and filed cross motions for summary judgment. The trial court thereafter entered final judgment for Appellees after finding that they prevailed on summary judgment. We affirm.

At issue was the facial validity of sections 28.35(2)(f), 28.35(2)(f)(6), and 28.36(2)(b), Florida Statutes (2018), as amended in 2019, which set out the process for funding the budgets of county clerks of courts. Appellants sought a declaration that the statutory budgeting scheme sets a revenue-based “cap” on the clerks’ budgets, in violation of article V, section 14(b) of the Florida Constitution, which Appellants assert establishes a cost-based standard or “constitutional floor” for funding levels.

“The constitutionality of a statute is a question of law subject to de novo review.” *Crist v. Ervin*, 56 So. 3d 745, 747 (Fla. 2010), *as revised on reh’g* (Jan. 20, 2011). The trial court conducted the appropriate scope of review for a facial challenge to the legislative enactments, limiting its inquiry to the text of the statutes and not their application to a particular set of circumstances. *See Fraternal Order of Police, Miami Lodge 20 v. City of Miami*, 243 So. 3d 894, 897 (Fla. 2018).

The trial court also applied the proper law in ruling for the Appellees.\* The trial court correctly declared that article V, section 14(b) “requires only that funding not fall below that which is needed to enable the Clerks to perform at a constitutionally-required level.” The trial court therefore rightly held that the

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\* Accordingly, we find it unnecessary to address the various alternative grounds for affirmance raised by Appellees.

statutory procedure involving cost calculations by the Clerk of Court Operations Corporation under the challenged statutes “are of operational budgeting needs that do not equate to the minimum required under the Florida Constitution.” As we stated in *Florida Department of Revenue v. Forman*, 273 So. 3d 223, 225 (Fla. 1st DCA 2019), “The statewide performance measures for court clerks are not an appropriate tool to measure whether the Clerk [of Broward County] is unconstitutionally underfunded. These standards, which were promulgated by the Clerks of Court Operations Corporation as directed by statute, are not constitutional requirements.” *See also Crist*, 56 So. 3d at 752 (holding that operational underfunding is not the same as constitutional underfunding).

AFFIRMED.

RAY, C.J., and BILBREY and NORDBY, JJ., concur.

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***Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.***

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Jon L. Mills, Corey P. Gray, and Carlos M. Sires of Boies Schiller Flexner LLP, Fort Lauderdale, for Appellants.

Ashley Moody, Attorney General, and Blaine H. Winship, Special Counsel, Tallahassee, for Appellees.