

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM A.D., 2004

SIRGANY INTERNATIONAL, INC.,

Petitioner,

vs.

MIAMI-DADE COUNTY, FLORIDA,

Respondent.

**

**

** CASE NO. 3D04-1527

**

** LOWER TRIBUNAL
CASE NO. 04-1922 CA32

**

Opinion filed September 22, 2004.

A Case of Original Jurisdiction - Prohibition.

Stephen M. Cody, for petitioner.

Robert A. Ginsburg, County Attorney and Dennis A. Kerbel,
Assistant County Attorney; Marie Perikles and Christopher
Mazzella, Office of Inspector General, for respondent.

Before SCHWARTZ, C.J., and COPE and FLETCHER, JJ.

FLETCHER, Judge.

Sirgany International, Inc., has invoked by petition this
court's original jurisdiction, seeking the issuance of a writ of
prohibition. Sirgany contends that the circuit court does not

have jurisdiction over the underlying action (circuit court case no. 04-1922 CA32) brought by the Miami-Dade Inspector General to enforce his subpoena seeking certain records of Sirgany. We deny Sirgany's petition on the merits.

As we noted in Sirgany Internat'l, Inc. v. Miami-Dade County, 845 So. 2d 1017 (Fla. 3d DCA 2003), the Miami-Dade Office of Inspector General has the responsibility to investigate various and sundry county matters, and is delegated the power to subpoena witnesses and to require the production of documents in aid of investigation.¹ The Inspector General has sought by subpoena the production of certain records of Sirgany in relation to Sirgany's commercial activities at the Miami International Airport. Sirgany has resisted production, thus

¹ By section 1.01A(20), Miami-Dade County Home Rule Charter, the Board of County Commissioners has been empowered to:

"Make investigations of county affairs . . . and for these purposes . . . subpoena witnesses . . . and require the production of records."

By section 2-1076(c)(3), Miami-Dade County Code, the Board of County Commissioners delegated subpoena power and production power to the Inspector General. See Sirgany Internat'l, Inc. v. Miami-Dade County, 845 So. 2d 1017 (Fla. 3d DCA 2003).

placing the Inspector General in the position whereby he has had to seek circuit court enforcement of his subpoena.²

Sirgany contends in its prohibition petition that the circuit court does not have jurisdiction of the Inspector General's subpoena enforcement action. Sirgany bases its argument on Article V, section 20(c)(4), Florida Constitution, and on section 34.01(a), Florida Statutes (2003), both of which provide that the county courts shall have original jurisdiction of all violations of municipal and county ordinances. As Article V, section 5(b), Florida Constitution provides that the circuit courts shall have original jurisdiction which is not vested in the county courts, Sirgany's ultimate argument is that only the county courts have jurisdiction over municipal and county ordinances.

However, section 26.012, Florida Statutes (2003) governs the jurisdiction of the circuit courts. It reads in pertinent part:

"(2) [Circuit courts] shall have exclusive original jurisdiction: . . . (c) In all cases in equity . . . [and] (3) the circuit court may issue injunctions."

As we noted, the county courts' jurisdiction is limited by the Florida Constitution and by statute to violations of municipal

² The Inspector General filed suit in the form of a sworn petition to show cause. Whatever its label, it is a civil action. See Rule 1.040, Fla.R.Civ.P.

and county ordinances; that is, they have jurisdiction over the prosecutions of ordinance violators. On the other hand, the circuit courts have been assigned jurisdiction to issue all injunctions of whatever nature, which includes those enforcing ordinances. As the Inspector General's petition seeks enforcement of his subpoena, an injunctive action, the circuit court has jurisdiction and Sirgany's prohibition petition fails.

This jurisdictional arrangement is nothing new. In Pinellas County v. Hooker, 200 So. 2d 560 (Fla. 2d DCA 1967), for example, the Second District Court of Appeal determined that the enforcement of an ordinance (there a zoning ordinance) by circuit court injunctive relief was not precluded by the availability of a legal "remedy," that being the ability of the county to prosecute a criminal action in county court.³ In commenting on the jurisdictional arrangement the supreme court pointed out in Rich v. Ryals, 212 So. 2d 641, 644 (Fla. 1968) that denying the county injunctive relief to enforce zoning regulations and restricting it to county court criminal procedure would in effect render the zoning regulations useless. The same uselessness would result here. Indeed, Sirgany's argument, if adopted, would eliminate the enforcement of any and

³ Hooker also holds that the enforcement of an ordinance does not require the presence of a nuisance in order for injunctive relief to be available.

all municipal and county ordinances, thus rendering them all useless.

The Inspector General is seeking equitable, injunctive relief enforcing his subpoena which he issued pursuant to the county's ordinance. His petition in the underlying case has alleged issuance and Sirgany's noncompliance. That is sufficient to invoke the circuit court's jurisdiction.

Petition for writ of prohibition is denied.

COPE, J., concurs.

SIRGANY INTERNATIONAL v. MIAMI DADE CO.
Case no. 3D04-1527

SCHWARTZ, Chief Judge (specially concurring).

I believe that the issue in this case is controlled by *Southern Records and Tape Service v. Goldman*, 458 So. 2d 325 (Fla. 3d DCA 1984), approved, 502 So. 2d 413 (Fla. 1986). Although my own preference⁴ is for the directly contrary view expressed by the Fourth District in *Winn-Dixie Stores, Inc. v. Ferris*, 408 So. 2d 650 (Fla. 4th DCA 1981), review denied, 419 So. 2d 1197 (Fla. 1982), and by Judge Barkdull's dissent in *Southern Records*, I am bound to concur on the authority of the majority decision in *Southern Records*.⁵

⁴ Because nobody has written on either a clean or dirty slate for several decades now, I do not employ that particular cliché.

⁵ In its review of *Southern Records* the Supreme Court did not resolve the conflict between that decision and *Winn-Dixie*, 408 So. 2d at 650.